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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, March 8, 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:

Craig Masserant
Debbie Mariani
Jason Negri
Joyce Priebe, Chair
William Rill

ABSENT:

CONSENT AGENDA

Motion to approve Zoning Board of Appeals Agenda for tonight.

Motion made by Member Treasurer Member Negri, seconded by Member Mariani.

Voice Vote: Ayes: (2)

VOTE: MOTION CARRIED UNANIMOUSLY

GENERAL CALL TO THE PUBLIC- none

CURRENT BUSINESS

1. ZBA 2023-001

Owner: Michael and Ronda Duran
Location: 8882 Rushside Drive
Parcel ID: 4715-17-402-018
Request: Variance application to permit the construction of an 18-foot by 20-foot pergola with a 3-foot south side yard setback and a 36-foot setback from the ordinary high-water mark of Rush Lake (10-foot south side yard setback and 50-foot setback from the ordinary high-water mark required, Section 36-186).

- Chair Member Priebe opened the public hearing to the applicant, Michael Duran. He explained they were seeking to cover their rear deck that they built seven years ago. Due to the extreme weather, they need something more protective than the canvas awing that they are utilizing currently. Neighbor's tree fell over on their home last winter. The neighbor that lives to the east, where the 3 ft side yard setback, came to tonight's meeting to show his support for this project.
- Chair member Priebe opened the meeting to Amy Steffens, the Planning and Zoning Director. Amy read through her staff report. She stated that this parcel is about 6,000 sq feet abutting Rushside on the east and Rush Lake to the west. She read through all of the 7 "Finding of Fact" Variance Standards that are required for the Planning Commission to allow for any variance, in Section 36-137 of the Hamburg Township Ordinance. She said 1) this parcel doesn't have any exceptional or extraordinary circumstances that other surrounding properties do not exhibit. This is a typical narrow waterfront lot as are other homes in the vicinity. The existing deck that was permitted in 2017 with an 8' side yard setback but appears to have been constructed 4' closer to the property boundary than was approved. This is included in Exhibit B. The chosen design of the pergola and the construction of the deck in relation to the property boundaries, the posts for the pergola would be set 3' from the side property boundary. It is the design that has caused the need for this requested variance. 2) Staff doesn't believe that granting this variance is necessary to preserve the enjoyment of a substantial property right. A smaller structure could be built, lessening this variance request. Also, a variance for a pergola within the 50' OHM water setback would allow a nonconforming covered structure to build where one doesn't currently exist. 3) A side yard setback is intended to provide privacy and provide a transitional space between each adjacent structure with its use. Staff would be concerned about the bulk of the structure near the side yard setback. When we look at a variance request, we must consider what this project is going to look like within the setback area. Here the required setback is 10'. Staff feels there are other options available to the applicant such as lessening the size of the structure and thus not requiring a variance. 4) The 2020 Master Plan update states that one of our goals is to protect, preserve and enhance the unique, natural character of parcels along the lakes. The required setbacks in the side yard and from the OHM is part of that preservation of the township character. 5) Similar to standard #1, staff does not believe that the condition with this parcel is so general or recurrent in nature along this section of the lake. We have relaxed our zoning standards through ordinance text amendments because we recognize that waterfront lots are very narrow. We have relaxed the side yard and front yard setbacks that we have. In this case, staff believes that because the construction of the deck was not conforming to the land use permit that was submitted and approved, is the reason that this variance is being requested. 6) Granting this permit will not establish anything other than what the site is zoned for, which is waterfront residential, which it will remain. 7) Allowing a variance to build a pergola that does not conform to the setback standards of the zoning ordinance would not advance the reasonable use of the property. This is a preferred design, not a required design. Such a variance approval should ensure that this structure meets the 8' south side yard and a 36' setback, to conform to the land use permit issued in 2017, as a condition for approval.
- Member Masserant asked how this deck got put incorrectly. Would it have been inspected before it was approved? Amy clarified that in 2017 that communication between Livingston County Building Department and the township was not efficient. Today that communication has been improved, requiring any changes

made to a plot map or site plan requires that the applicant come back to the township for approval, even if the LCBD approved the changes. The township did issue a valid land use permit with a 8' south side yard setback. This deck was not built to what the land use permit required.

- Chair member Priebe opened the Public Hearing for this case.
- Mr. Bruce Sabuda -8892 Rushside Dr. stated that he has been a resident living at this home for 50 years and does not have any objection of Mr. Duran's project. Mr. Sabuda said that he owns a pergola, which enhances the value of his property.
- Chair member Priebe closed the Public Hearing for this case. She asked Mr. Duran to come back to the podium. He said that he had received a letter stating that the 2017 deck had not conformed to the originally approved land use permit. Mr. Duran said that he confirmed that the deck was 16' X 12' according to the land use permit. The setback of the side property line is where the error was made. There were no changes made to the deck otherwise. He said that it is the same deck that was approved by the township. He further explained that two rose bushes would have to be removed, due to the poles of the pergola. Mr. Duran explained that this is a high-quality pergola and that it will add value to the area.
- Chair member Priebe opened the public meeting to the Zoning Board of Appeal board members.
- Treasurer member Negri stated that he was bothered by the discrepancy of between what has been reported and what the homeowner stated. Amy stated that the information that was submitted to the township in 2017 was incorrect. Negri asked how many feet were between the existing deck and the side yard boundary line. Negri said he has two problems with this case. 1) The setback issue between what was approve and what was built. He said he doesn't know what to do with that. 2) The nature of building a pergola is that it blocks visibility. Even though your neighbor to the south doesn't have an issue with it, We have to look at posterity and what impact this project will be. The way that the zoning ordinance is written is to preserve the unobstructed view of the lakes. Negri asked if any of the ZBA members did a site visit. Chair Priebe said she went out there and found that the deck was very close to being 3' from the property boundary as stated in the staff report. There isn't a lot of space between the two homes there. Negri pointed out that the pergola would impact the lake view from the other side of the parcel. Chair Priebe asked the applicant to return to the podium since he was speaking to the board members.
- Mr. Duran stated that his home sits 15-20' towards the lake, and closer than his neighbor. He said that the new pergola would not be visible from the neighbor's view, and the neighbor's pergola goes beyond that. There are no other homes that would be impacted by this project. Priebe stated that she thought there would be no sight impediment from either home with the project.
- Member Mariani asked if the applicant established the pergola where it was originally approved, how would that impact the design of the pergola? Mr. Duran walked up to the board members table and showed members Mariani, Masserant and Negri the drawing and pictures that he had.
- Treasurer member Negri stated as he took his seat, said this project might now the southern neighbor but it would impact the neighbor's view to the north. Negri stated that with each variance that the ZBA board issues, the more that other residents in the area will want to keep moving closer and closer to the lake. Mr. Duran said that he understood that fact. Negri asked Amy if she had anything else to present.
- Amy asked the applicant if the deck extended beyond the line of the house. Mr. Duran said yes, it does. Amy explained that is not what was approved in 2017. She further affirmed that this is where the discrepancy lies. Mr. Duran responded that someone drew his house incorrect on the plot map. He said

that the deck was depicted correctly on the site plan. Abby explained that it would have been a mortgage survey that he would have submitted with the deck drawing. Mr. Duran said that he did not know that the deck was nonconforming until 4 days ago, when he got the email about this ZBA meeting. Mr. Duran confirmed that the 3' shown on the plot map for this project is correct. Amy stated that we could request a survey to determine the exact set back since we do not have any correct documentation here.

- Negri asked if we could table this case until next month so he can go out there and measure the area himself? Amy asked if the boundary lines are staked? Mr. Duran said he didn't believe they were. Member Mariani asked who drew the plot map for the paperwork submitted to the township. Amy stated that in 2017, it was the applicant's mortgage survey. Amy reminded the board that mortgage surveys are not the most accurate, but the applicant (property owner) told us, with some assurance, that the deck was going to have an 8' setback. Negri said even though it was only a 3' set back? Amy stated that the deck design wasn't even the same as it was proposed on the mortgage survey.
- Chair member Priebe stated that she didn't know if this was accurate, but the mortgage survey showed the deck was 19' 4" from your neighbor's house. Mr. Duran stated that he didn't measure the deck from his neighbor's house. He said he just measured the surface area of the deck. All ZBA members agreed that no amount of measuring onsite would reduce the issue with this nonconforming deck.
- Member Rill asked the applicant would be fine if the pergola was built according to the 2017 land use permit approval setback standard? Mr. Duran said that if he did that, it would defeat the purpose of the pergola from blocking the sun. He continued to explain his issue with the use of umbrellas blowing away in this area.

Denial motion made by Treasurer Member Negri, supported by Member Mariani, to deny variance application ZBA #23-001 at 8882 Rushside Dr (TID#15-17-402-018) to permit the construction of an 18' x 20' pergola with a 3' south side yard setback and a 36' setback from the ordinary high water mark is required of Rush Lake (10' south side yard setback and 50' setback from the ordinary high water mark is required, Section 36-186).

We find that the variance do not meet variance standards, 1, 2, 3, 4, 5, or 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 present in this staff report.

Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

2. **ZBA 2023-002**

Owner: Mounir and Tamra Hauran

Location: 2602 Baseview Boulevard

Parcel ID: 4715-31-401-010

Request: Variance application to permit the construction of a two-and-a-half story dwelling with an 18-foot front north yard setback and a 5-foot, 10-inch east side yard setback (25-foot north front yard and 10-foot east side yard setback required, Section 36-186).

- Chair Member Priebe opened the public hearing to the representative of the applicant, Richard Linnell to speak. He stated that Mrs. Hauran and her architect were present at the public hearing as well. Clients purchase the home last summer. This is a second home that they own on this lake. This home presents

many challenges since it is the smallest parcel on this lake due to the lake front boundary. The present home on this lot is tasteful and moderate for the neighborhood. It is not overly large for the community and very functional. The couple has a couple of twenty-year-old children. They want a home that their family can enjoy and become their permanent house. The age of this home is difficult to locate. The cost to repair, to make this a modern home, was estimated at an exorbitant cost when compared to a rebuild. The contractor said that it would be very difficult to rehab this current home. There are two variances requested; one for the side yard and the other is in the front setback. Garages can have livable space and on parcels that abut a body of water can be 15' from the street. The current home is about 1600 sq ft. The first floor is 700 sq ft and the second floor is 600 sq feet. The first floor is very constricted by the township setbacks.

- Chair Member Priebe opened the public meeting to the board members to comment, with no response. She stated that we did receive an email from Michael Thompson who lives on Baseview Dr, on the east. Mr. Thompson stated in his email that this variance regarding the proposed home is not concerning to him, and it has his support. The only issue that he did express concern about was regarding the parking on the right-of-way be abandoned. The past owner used it as a personal driveway. Michael Thompson explained in his email that he manages the private road maintenance contract; a few neighbors have spoken to him about this variance application. Those neighbors expressed no concern with the variances for the house either. Mr. Thompson stated that he was an attorney, so that was why they neighbors asked him to clarify what these variances were. She then opened the public meeting for public comment to the audience.
- Stanley Liebaert -2592 Baseview Dr stated that he has lived here since 1977. He said his home is one of the smallest on the block and that this variance request to build a larger home seems in line with other homes in the neighborhood. He stated that he supports this variance.
- Chair Member Priebe closed the public hearing with no other responses from the audience.
- The architect asked to come to the podium, so Priebe invited him to the podium. On the variance request, the architect stated that the east set back shows 5' 10" but it should have been 5'. The 10" doesn't allow any overhang for the builder to make minor adjustments to the building. Both dimensions are on the site plans, but he wanted to clarify this.
- Chair Member Priebe opened the public meeting to Amy Steffens, the Planning and Zoning Director. This parcel is a small water lot since lake front properties usually consist, on average, 6 to 7,000 sq ft but this one is 3,700 sq ft. This is a very size constrained parcel. Baseview Blvd is to the north and Base Line Lake is to the south. The current home is a 1,168 sq ft single story home. The proposed dwelling will be a two-story 1,653 sq ft with an attached 558 sq ft garage. The variance request is asking that the living space above the garage allow a 18' north front yard setback, where living space on the second story is required to be 25' from the street. Both side yard setbacks are also being requested at 5' each where 5' and 10' (total of 15' is required).

Amy read through her staff report starting on page 2, regarding all 7 "Finding of Fact" Variance Standards that are required for the Planning Commission to allow for any variance, in Section 36-137 of the Hamburg Township Ordinance. 1) Staff doesn't believe this property has any exceptional or extraordinary circumstances that would necessitate the living space being built in the required front yard setbacks. This is a small lot, and the side yard setback variance request for the east side since it abuts the undeveloped road end lot on that side. 2) A substantial property right is not advanced with this architectural design that proposes a two-story structure within the front yard setback. Staff does not have an issue with the side yard setback. 3) The bulk of the structure within the required front yard setback for a single level structure is less impactful visually than a two-story structure, along the roadway. The two-story dwellings to the east and west both conform to the 25' front yard setback from the roadway. The east yard setback doesn't appear

to be materially determinantal or injurious to the undeveloped road end lot to the east. 4) The 2020 Master Plan aims to protect, preserve, and enhance the unique, natural waterfront amenities in Hamburg Township. The ordinance regulations are designed to help maintain the character for this area. This proposal will meet the waterfront OHM required setbacks. 5) The Hamburg Township ordinance has been amended to allow accessory structures to be located closer to the front property boundary than the living space. The amendment was not intended to be used as a tool to allow second story living space to encroach into the front yard setback.

- Treasurer Member Negri asked Amy if this type of issue had been raised at the time that this section of the ordinance was amended, allowing accessory structures to be placed 15' from the street. Amy recollected that the intent of the ordinance was to allow only the accessory structures within the required 25' front yard setback. The township had been receiving many variance requests at that time, to only build accessory structures. Many of the homes had already been built with a 25' setback from the street. There was no room to construct these needed accessory structures. No one had any recollection of discussion regarding livable space being proposed or allowed within the 25' front setback; it only allowed accessory structures to have the 15' setback.
- Amy continued with standard 6) if the ZBA granted the full variance, it will not grant a use contrary to the ordinance for this zoning district. 7) Is this the minimum variance necessary to permit reasonable use of the land? Yes, it is a smaller waterfront lot. The ordinance has been amended to allow accessory structures to be located 15' in the front yard setback. The bulk of the structure being located within the 25' of the front yard setback is something that staff and the ZBA should consider.
- Chair Member Priebe opened the meeting to any ZBA members for discussion. She stated that she had no issue with the side yard setback since the undeveloped roadway (park) was vacated in 1961. Priebe said that standard #7 which discusses the minimum necessary to allow this variance, she compared the existing home that is 22' 8" and the proposed structure that would be at 18' from the street. She said we might want to discuss having the applicant move the second story back to a 22' front yard setback, since that is where the current house is now. Then the garage can meet the 18' setback. Other members chimed in that sounded good.
- Richard Linnell asked to speak again at the podium. 1) He mentioned that with the reading of the email from Michael Thompson about the parking on Maple Drive. Richard said his clients would be happy to cease using this area for parking. 2) He clarified that this is the smallest lot on the street, and on this lake. A 3700 sq ft lot is nonconforming in our entire state. He requested that there be some consideration for this particular situation. 3) There is no garage that services this home currently. 4) The size of the footprint is often the biggest issue with these small lake lots. Having living space above a garage makes a lot of sense, when done appropriately. This proposed structure is a reasonably sized home, and not excessive for a new construction. The design of this proposed home is done tastefully but making rooms 5' smaller make them unusable.
- Member Mariani asked if the architect could move the livable space back away from the street to the 22' of the existing structure? The architect said that the building code is different than the zoning code. When the current homeowner purchased this home on this small lot, they knew that there was going to be restrictions due to its size. Our ordinance is in place to protect beauty of the township. Buyers need to understand that smaller lots require constraints. Prior to purchasing this lot, maybe the homeowner should have approached the zoning department at the township to ask them if this proposed home design would work on this piece of land.

- Treasurer Member Negri asked about Cove Park to the east. Stanley Liebaert addressed Negri's question, explaining that Cove Park was established on the lake side edge of all of the homes along with the three road ends. In 1961, Cove Park was abandoned. All of the water front lots absorbed the dedicated Cove Park land on the lake edge. The three road ends were not abandoned, and they are still communal property that belongs to all the property owners of Sunset Cove. Stanley came back up and stated that the homeowners still utilized these road ends as boat launches.
- Amy clarified that some of these undeveloped road ends in Hamburg Township that end at the lake have been designated fire lanes by the fire department. In older plat areas such as this one, they are just road ends that end at the lake.
- Mrs. Hauran came up to the podium. She said they own a cottage at 2920 Indian Trail on Baseline Lake. It is closer to the Huron River off a sandbar where there is a mature community that is very busy and not age appropriate for raising children. We want to keep the cottage as a summer home, and this is our fulltime residence that will retire in.
- Treasurer Member Negri said he would like to grant this variance, but he can't see how he can. Member Masserant stated that he would be more comfortable if the applicant proposed the new home where the existing house is established., as well as the encroachment into the undeveloped road end. He stated that he is not asking for a full redesign. The garage can come out closer to the road, but the living space should stay where the current structure exists.
- Amy asked if the garage was moved 3' closer to the road, and the house was built with a 22' front yard setback, would that help in anyway with conformance to the ordinance and space needs of the applicant?
- Chair Member Priebe said she wouldn't want to consider a variance to move the house towards the lakefront. She said the garage could be at the 18' front yard set back but the second floor living space would need to be set back to the existing 22' setback.
- Treasurer Member Negri explained to Richard Linnell that in order for the ZBA to grant a variance here, the variance standards must all be met. Based on the testimony of the hearing, Negri is saying that the house doesn't need to be this large, so all the standards are not being met.
- Amy suggested to the chair, of tabling this variance until the Hauran complete their wetland delineation for the vacant parcel across the street, and that variance is scheduled to be here at a public hearing. Amy reminded the applicant and her representative that if the ZBA denies their case tonight, then they will have to wait until 1 year before refileing for another variance, unless they can show something substantially different. Amy stated that the delineation might not be complete and the case ready to be heard until the May 10, 2023, ZBA Meeting. Such a tabling could allow the applicant time to look at redesigning the proposed home that moved the living space to the 22' 8" front yard setback and would be acceptable to the ZBA board. Most of the board members agreed that the living space needs to conform to what the existing home is set at, allowing a minimum variance for standard #7 that could be approved.
- Richard Linnell asked for a few minutes to talk privately with his client in the hall. Then he returned and said yes, they would be agreeable to be tabled until the ZBA Meeting when the other variance public hearing for the vacant parcel would be heard.

Tabling motion made by Member Masserant, supported by Member Mariani, to table this variance application ZBA #23-002 at 2602 Baseview Boulevard (Tax ID # 4715-31-401-010) until the April 12, 2023 ZBA Meeting, to allow the applicant time to make some revisions to this project.

Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

3. ZBA 2023-003

Owner: Mounir and Tamra Hauran
Location: Vacant parcel on Baseview Boulevard (nearest address to the south 2602 Baseview Boulevard)
Parcel ID: 4715-31-401-021
Request: Variance application to permit the construction of a 715-square foot accessory structure with a 20-foot front yard setback from Baseview Boulevard and an eight-foot encroachment into a regulated wetland (25-foot front yard setback required, Section 36-215; 50-foot setback from a regulated wetland required, Section 36-293).

Tabling motion made by Treasurer Member Negri, supported by Member Masserant, to table variance application ZBA #23-003 at 2602 Baseview Boulevard-vacant parcel (Tax ID # 4715-31-401-021) until the April 12, 2023, ZBA Meeting, to allow the applicant time to secure a wetland delineation.

Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

4. ZBA 2023-004

Owner: James Jr. and Heidi Becker
Location: 10191 Imus Road
Parcel ID: 4715-28-200-003
Request: Variance application to permit the construction of a 13.5-foot tall, 627-square foot accessory structure with a 3.5-foot south side yard setback and a two-foot setback from the ordinary high-water mark of Devil's Basin (maximum 10-foot tall, 144-square foot accessory structure permitted within 50 feet of the ordinary high-water mark, Section 36-215; 10-foot side yard setback required, Section 36-186).

- Chair Member Priebe opened the public meeting to Scott Brock, attorney for the Beckers. He explained that he and his clients were there to get a third approval for a shed. To summarize, the Beckers purchased this home in 2021 at which time there was a shed that existed on the property. The enclosed portion of the shed, that footprint has not been changed. The only difference is that his clients built a wraparound porch to the shed. That concrete slab has already been poured and exists there now. They have now built a big roof that overhangs that porch so they can sit out there and enjoy the lake. They came to the township when they decided they wanted to improve this shed. Mr. Becker had spoken with the Zoning Administrator, Chris Madigan at that time about this project. He presented drawings of the new shed and the Zoning Administrator stamped and approved them and issued him the land use permit. Immediately, his clients knocked down the preexisting shed. They built up the walls and roof, as well as

poured the concrete, at which time he was red tagged by the Hamburg Township and by the Livingston County Building Department. The Township red tag stated that the project was bigger than was approved on the land use permit. The Livingston County Building Department red tag said you do not have a valid land use permit. His clients brought in updated building plans to the Township Planning and Zoning Department. Then Chris stamped and approved those plans and keep on building. The client went to Livingston County Building Department to ask why they still had a red tag on the shed. The county said that the Township should not have issued that land use permit because you do not meet all the setback requirements or the standards of the ordinance. Mr. Becker asked what do we do now? The township attorney and planner reached out to the Beckers and Mr. Brock. We understand that this land use permit was issued in error, so now what you need to do is to submit a variance request to the ZBA so you can move forward with approved building plans. The reason that a building permit was not attained from Livingston County was because Chris said that any structures under 200 sq ft does not require one. Chris mistakenly didn't know that the Livingston County Building Department administers the roof overhang which does require a building permit. Scott said that they then went to the building department to try to build that permit, running into this issue.

- Chair Member Priebe opened the public meeting to Amy Steffens, the Planning and Zoning Director. This property is a little waterfront lot on a peninsula. This lot is 10,890 sq foot area that abuts Strawberry Lake to the west and Devil's Basin to the east. The accessory structure is the subject of this variance request. We are not talking about a shed as defined by Hamburg Township's Zoning Ordinance. By these standards, a shed is under 200 sq. ft. in floor area with a maximum height of 10'. The total height of the structure that was built was 13.5 feet tall and is a 627 sq ft accessory structure. Amy continued to read through her staff report on this case, providing the history of the project with the township. To summarize, a land use permit could be issued only after the accessory structure received variance approval from the Zoning Board of Appeals. This is why this case is before the Zoning Board of Appeals tonight. Normally we would have pursued such cases as these, with the Code Enforcement, but because we have a history of the Zoning Administrator approving plans, the township attorney's advice was to seek a variance approval.

Amy read through her staff report starting on page 3, regarding all 7 "Finding of Fact" Variance Standards that are required for the Planning Commission to allow for any variance, in Section 36-137 of the Hamburg Township Ordinance. 1) There is something particular with this lot since it has double water frontage, which is an exceptional or extraordinary circumstance that doesn't apply to the majority of our waterfront lots. 2) This partially constructed accessory structure itself is not necessary for the preservation and enjoyment of a substantial property right, but the Zoning Administrator should have advised the homeowner to see variance relief for this project. 3) The location of this structure itself is not likely to be materially detrimental to the public welfare but there are two issues that could be significantly detrimental to Hamburg Township residents as a whole and to adjacent properties. Amy explained the FEMA Flood Insurance Rate Map and the 100-year requirements, that require an elevation certificate when the foundation is completed, before vertical construction and when the project is completed. That is part of our zoning ordinance for a land use permit to be approved. For building an accessory structure, the building requirements are not as stringent as when building a home in the flood plain. It is difficult to determine where the structure lies in relation to the BFE elevation. Mr. Becker will comply with our floodplain regulations by submitting the required elevation certificates. EGLE has determined that site is within a EGLE regulated floodplain and a Part 31 Floodplain permit may be required to occupy the floodplain. An elevation certificate is required to determine if an EGLE permit is needed if this project is approved. Also, a Livingston County Building Department Permit is required for the completion of this project. 4) The 2020 Master Plan aims to protect, preserve, and enhance the unique, natural waterfront amenities in Hamburg Township. The ordinance regulations are designed to help maintain the character along the lakes. 5) The condition or situation for the specific piece of property is of a general and

recurrent nature. Accessory structure setback requirements have previously been relaxed by zoning text amendments. 6) The site is zoned, developed, and used for single-family residential purposes and the granting of this variance request will not establish a use not permitted by right within that zoning district. 7) The Zoning Administrator issued the LUP in error despite not having adequate information to determine whether the structure complied with the township zoning ordinance. You have been provided with the Township Councils letter.

- Member Mariani asked for clarification on what the Zoning Administrator received regarding this project. Amy admitted that all the required documentation was not attained in February when the original land use permit was issued. The enclosed portion ever changed. It was the open air (pavilion) overhang that changed.
- Chair Member Priebe opened the public hearing to the audience.
- Robert Jenkins-10199 Imus Rd stated that the new structure is an improvement to what had existed onsite previous, a decrepit shed. This new project is an improvement to the neighborhood.
- Chair Member Priebe closed the public hearing to the audience.
- Member Mariani stated that this is a difficult case with all the mistakes that were made, not anything to do with the resident trying to seek approval and get things done correctly with all approvals.
- Attorney Brock approached the podium again, shared two cases (Supreme Court and Michigan Court of Appeals) about residents who relied on the township to attain permits, and then they went out and built. They substantially completed the project, and then the township came back to the homeowner admitting their mistakes. The Beckers have spent about \$30, 000 on what exists, and if they tore down and rebuilt what was there, which would cost an additional \$20,000 to build what they already had onsite. The homeowner didn't do anything wrong, and please help us out here.
- Member Masserant asked what happens if EGLE denies this application. Amy stated that if EGLE denies the applicant the right to build here, then that is not up to the township. We are just working on step one which is variance relief. The homeowner needs this variance approval to move forward to get EGLE approval.
- Member Rill asked that if we do something wrong will EGLE impact the township residents. Amy explained that we voluntarily participate in the CRS (Community Rating System) through FEMA that if the municipality does certain activities, like education and enforcement of flood plain regulation standards. Our participation in this program that gets our residents a discount on their flood insurance premiums. NFIP wants to ensure that the communities that participating in CRS are enforcing their flood plain standard correctly. On February 1 every year, we send CRS a report of the previous years flood plain regulatory activity. We must show that we have collected elevation certificates at the final inspection. They require a 95% completion rate to stay in this program. Through their audits, they can go back 20 years if we aren't compliant and make us rectify the deficiencies. Every 5 years, FEMA comes onsite and reviews all our documents. Even though this project doesn't have a building permit, it will still need to meet Michigan Residential Building Code standards which include the floodplain standards. The structure needs to be built out of flood resistant materials. If the enclosed portion is below the BFE (Base Flood Elevation) they would just need flood vents.

Approval Motion Member Mariani, seconded by Member Rill, to approve variance application ZBA 23-004 at 10191 Imus Road (TID 15-28-200-003) to approve the variances as requested (permit the construction of a 13.5-foot tall,

627-square foot accessory structure with a 3.5-foot south side yard setback and a two-foot setback from the ordinary high water mark of Devil's Basin (maximum 10-foot tall, 144-square foot accessory structure permitted within 50 feet of the ordinary high water mark, Section 36-215; 10-foot side yard setback required, Section 36-186) by the applicant with respect to this property, for the following reasons:

- (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 because the applicant reconstructed the boathouse and patio on the existing concrete foundation that was in place for a similar sized shed on the property. The boathouse and the patio share the same truss system that could not be separated.
- (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 to the extent that the use of the property for a boathouse, patio, and storage is a permitted use in the district.
- (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 because the boathouse was built in the same location as the original shed on the property and is of similar size and height.
- (4) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township because the use is a permitted use in that Zoning 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 since the concrete foundation was in the same location on this property and not on the adjacent 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 as enclosed structures with patios are permitted in this Zoning District.
- (7) The requested variance is the minimum necessary to permit reasonable use of the land so that the building may be in the same location as the previously existing shed.

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 as the use is not substantially different than the use and purpose of the pre-existing shed, and will have no greater impact on the surrounding area subject to compliance with all other applicable laws and ordinances within 60-days of the approval of these variances, including compliance with all local, state, and federal floodplain requirements and receiving a Part 31 EGLE floodplain permit, as necessary, prior to the issuance of a township land use permit for the completion of the structure.

Voice vote: Ayes: 5 Nays: 0

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF THE MEETING MINUTES

Motion to approve the January 11, 2023, as presented was made by Member Mariani, seconded by Treasurer Member Negri.

Voice Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

Motion made by Treasurer Member Negri, seconded by Member Mariani, to adjourn the meeting at 9:03pm.

Vote: Ayes: (5)

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: _____

Joyce Priebe, Chair