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**Hamburg Township  
Zoning Board of Appeals  
Hamburg Township Board Room  
Wednesday, April 11, 2018  
7:00 P.M.**

**AGENDA**

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**
  - a) **ZBA 2018-004**

Agent: Angelini & Associates Architects  
Owner: Stephen and Catherine Boston Living Trust  
Location: 9658 Zukey Drive  
Pinckney MI 48169  
Parcel ID: 15-22-301-001  
Request: Variance application to allow for the partial demolition of an existing dwelling and the reconstruction of a 3,873-square foot dwelling. The proposed dwelling will have a 34.5-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.) and an 11-foot north side front yard setback from the platted right-of-way of Petty's Drive (25-foot front yard setback required for corner lot, Section 7.6.1.fn4.).

Variance application to allow for the addition to an existing non-conforming detached garage. The addition will have a 2.7-foot south side yard setback (five-foot side yard setback required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage will have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.).
- 8. New/Old business**
  - a. Approval of March 14, 2018 meeting minutes and findings of fact for ZBA 18-003.
- 9. Adjournment**



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7a



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

**FROM:** Amy Steffens

**HEARING DATE:** April 11, 2018

**SUBJECT:** ZBA 18-004

**PROJECT SITE:** 9658 Zukey Drive  
TID 15-22-301-001

**APPLICANT:** Angelini & Associates  
Architects

**OWNER:** Stephen and Catherine  
Boston

**PROJECT:** Variance application to allow for the partial demolition of an existing dwelling and the reconstruction of a 3,877-square foot dwelling. The proposed dwelling will have a 34.5-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.) and an 11-foot north side front yard setback from the platted right-of-way of Petty's Drive (25-foot front yard setback required for corner lot, Section 7.6.1.fn4.).

Variance application to allow for the addition to an existing non-conforming detached garage. The addition will have a 2.7-foot south side yard setback (five-foot side yard setback required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage will have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.).

**ZONING:** WFR (waterfront residential district)

**Project Description**

The subject site is a 9,627-square foot parcel that fronts onto Zukey Drive to the east; Zukey Lake is to the west, an unimproved platted right-of-way and single-family dwelling are to the north, and a single-family dwelling is to the south. The site is currently improved with a 2,568-square foot two-story single-family dwelling and a 654-square foot detached garage that is located partially in the right-of-way of Zukey Drive.

If approved, the variance request would allow for the partial demolition of the existing dwelling and the reconstruction of a 3,877-square foot dwelling. The proposed dwelling would have a 34.5-foot setback from the ordinary high water of Zukey Lake, where a 50-foot setback from the ordinary high water is required per Section 7.6.1., and an 11-foot north side front yard setback from the platted right-of-way of Petty’s Drive, where a 25-foot front yard setback required for corner lot per Section 7.6.1.fn4. Additionally, the proposed addition to the existing non-conforming detached garage would result in a 2.7-foot south side yard setback, where a 15-foot setback would be required per Sections 8.3.2. and 11.3.2.; an attached pergola would have a 9.4-foot east front yard setback, where a 25-foot setback would be required per Section 8.3.2. The proposed decks would not need variance approval as long as the deck is no more than 24 inches above grade. The proposed fire pit must comply with the setbacks as required by General Ordinance 40-F.

The existing and proposed setbacks for the dwelling and garage are noted in the table below.

	Existing	Proposed	Required
<b>Dwelling</b>			
North (front)	27 feet	11 feet	25 feet for corner lot
South (side)	10 feet	10 feet	10 feet
East (front)	39 feet	36 feet	25 feet
West			
(rear)	31 feet	34.5 feet	30 feet
(OHM)	29 feet	33 feet	50 feet
<b>Garage</b>			
North (front)	40 feet	40 feet	25 feet for corner lot
South (side)	3.25 feet	2.7 feet	5 feet
East (front)	9 inches into ROW	9 inches into ROW	15 feet

Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the township’s participation in the NFIP. In NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain areas. Insurance rates can be very high for new construction if the lowest floor elevation standards are not met.

Based on the plot plan, dated March 12, 2018, a portion of the site lies within the 100-year floodplain as identified by FEMA. However, it appears that no portion of the building envelope is encroached upon by the floodplain. Any development of this site would require a sealed

topographical survey with the base flood elevation noted to the nearest tenth of a foot; the plot plan submitted with the variance application is not sealed nor does it indicate the BFE to the nearest tenth of a foot.

### **Standards of Review**

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements 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.**

Because the ordinance would consider the subject site to a corner lot due to the platted right-of-way to the north, the north yard would be considered a front yard and the dwelling would have to meet the 25-foot front yard setback. However, staff believes that it is unlikely that this 20-foot wide right-of-way will be used for more than unimproved access to the lake and believes that the proposed 11-foot setback would be a minor deviation from the ordinance requirements. Therefore, there is an extraordinary circumstance applicable to this property that does not apply generally to other properties in the same district or zone.

In the applicant's submitted findings of fact, it is suggested that because the lot is only a fifth of the minimum size for the WFR district, there is an exceptional or extraordinary circumstance that applies to this property. However, the zoning ordinance's setback requirements are intended to provide flexibility and accommodations for waterfront lots and the site, at 9,627 square feet, is a sizeable lot size for the waterfront residential district. A structure conforming to the setback from the ordinary high water mark of Zukey Lake could be constructed on the site. With the removal of a majority of the existing dwelling the opportunity exists to bring this site into compliance with the setback from Zukey Lake that the township strives to protect.

The addition to the existing garage was constructed with a three-foot, three-inch side yard setback and over the front property boundary by nine inches. The applicant proposes a 20-square foot addition on the south side of the garage, and while that might be considered a minor addition the addition will increase the non-conforming setback. The zoning ordinance's non-conforming section (Section 11) was amended in November 2017 to allow the expansion of a non-conforming structure's footprint *only* if the expansion complies with the zoning requirements. Both the Planning Commission and the Township Board approval recommendations show a deliberate attempt by the township to amortize nonconforming structures by requiring compliance with the setback requirements. Additionally, staff cannot issue a land use permit for work on the garage until the garage is removed from the right-of-way of Zukey Drive.

Adding a pergola to the garage creates a self-imposed practical difficulty and is not due to an exceptional or extraordinary circumstance applicable to the property.

**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.**

A substantial property right is not preserved based on granting a variance for a particular architectural design. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. Approximately 70 percent of the exterior walls will be removed to accommodate a new dwelling. With the majority of the dwelling being demolished, staff finds no compelling reason to approve further encroachment into the setback from the ordinary high water mark. Additional living space could be constructed on the street side of the site, well within the setback requirements. The location of the addition is a self-created practical difficulty.

The applicant indicates that the garage is being expanded to create additional storage space. While a garage is a customary residential use, additional storage could be accommodated elsewhere on the site, in a conforming location. The proposed pergola does not add additional storage space and the requested variance for the pergola's deficient setbacks is due to personal preference.

**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 setback from the ordinary high water mark is intended to maintain and protect an open vista to the water from neighboring properties. Permitting a new structure to impede on the waterfront setback when there are alternative locations to construct additional living space is detrimental to the public welfare, particularly those properties that have been built with a complaint setback.

**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 in the North Chain of Lakes planning area of the Master Plan. This area envisions waterfront and natural river district zoning closely tied to the lakes and Huron River. The proposed request would not adversely affect the purpose or objectives of 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.**

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed dwelling cannot comply with the ordinary high-water mark setback standards. The site is a sizeable waterfront lot and there is adequate room in the east front yard to construct additional living space. Zoning text amendments have been recently enacted to address recurrent conditions of waterfront lots. The subject site can accommodate a compliant structure. Removing a nonconforming structure to construct another nonconforming structure is not consistent with the intent and spirit of the zoning ordinance.

**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 use of the site is single-family residential and the proposed variance would not change the use.

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

As previously stated, the lot could accommodate a compliant structure but the chosen design creates a self-imposed practical difficulty requiring variance approval for both the dwelling variance requests and the garage addition requests. With the demolition of approximately 70 percent of the linear feet of the existing walls, the project could be designed to meet the setback standards. Staff does find that the requested north front yard setback variance is a reasonable deviation from the ordinance based on the unlikelihood of the platted right-of-way to the north being developed as anything other than unimproved lake access.

“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. The ZBA then should direct staff to prepare a memorialization of the Board’s decision that reflects the Board’s action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Approval Motion:**

Motion to approve variance application ZBA 18-004 at 9658 Zukey Drive to allow for the construction of a dwelling with an 11-foot north front yard setback from platted right-of-way (25-foot front yard setback required for a corner lot, Section 7.6.1.fn4.). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight’s hearing and as presented in the staff report. The Board directs

staff to prepare a memorialization of the ZBA findings for the project.

**Denial Motion:**

Motion to deny variance application ZBA 18-004 at 9658 Zukey Drive to allow for the construction of a 3,877-square foot dwelling with a 34.5-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.), and a variance application to allow for the addition to an existing non-conforming detached garage. The addition will have a 2.7-foot south side yard setback (five-foot side yard setback required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage will have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.).

The variance does not meet variance standards one, two, three, five, or 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 as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Exhibits**

Exhibit A: Application materials

Exhibit B: site and construction plans (to be included in hard copy of report)

Exhibit C: DPW review

HAMBURG TOWNSHIP  
Date 03/21/2018 10:41:28 AM  
ZBA Case Number 18-004  
Receipt 1182777  
Amount \$500.00

RECEIVED

MAR 12 2018

Hamburg Township  
Planning and Zoning Department



FAX 810-231-4295  
PHONE 810-231-1000

P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)  
VARIANCE/INTERPRETATION  
(FEE \$500 plus \$50 each additional)**

1. Date Filed: \_\_\_\_\_
2. Tax ID #: 15- 22 - 301 - 001 Subdivision: Petteys Subdivision Lot No.: 1
3. Address of Subject Property: 9658 Zukey Drive
4. Property Owner: Stephen Boston & Catherine Boston Phone: (H) 248-644-7211  
Email Address: cathyboston@gmail.com sobos1@gmail.com (W) \_\_\_\_\_  
Street: 450 Westwood Drive (48301) City Bloomfield Village State MI
5. Appellant (If different than owner): Angelini & Associates Architects Phone: (H) \_\_\_\_\_  
E-mail Address: tangelini@angeliniarchitects.com (W) 734-998-0735  
Street: 113 East Ann Street City Ann Arbor State MI
6. Year Property was Acquired: 2013 Zoning District: WFR Flood Plain 100' year at west
7. Size of Lot: Front 74.75 Rear 74.75 Side 1 132 Side 2 132 Sq. Ft. 9594
11. Dimensions of Existing Structure (s) 1st Floor 1577 2nd Floor 991 Garage 654
12. Dimensions of Proposed Structure (s) 1st Floor 2145 2nd Floor 1732 Garage 765
13. Present Use of Property: Single Family residence
14. Percentage of Existing Structure (s) to be demolished, if any 70 %
15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X
16. If so, state case # and resolution of variance application \_\_\_\_\_
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
See attached page

HAMBURG TOWNSHIP  
Date 03/21/2018 10:41:28 AM  
Ref ZBA1800-4  
Receipt 1182777  
Amount \$150.00

18. Please explain how the project meets each of the following standards:

- a) 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 existing lot size is only 22% of the minimum lot area for the WFR district. The lot is also narrower at the width of 73' than the standard WFR required width of 125'. The site could be interpreted to have 2 front yards. The subdiv. was platted in 1925.

- b) 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.

The west side of the existing house is located 31.2' from the west property line, which is within the 50' setback from the high water mark. Adjacent homes are at +/- 30'. The remodeling/addition is intended to bring the house up to current standards.

- c) 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.

Granting variances will not be detrimental to the adjacent properties and will follow the precedents of the adjacent properties, The property to the north provides access to the lake. (no residence). The property to the south is owned by the same owners.

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

The property remains a single family home on the lakefront and the proposed setbacks will be in keeping with the existing homes

- e) 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 intended use of said property is typical of the adjacent properties in the Pettey's subdivision.

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

The use remains the same - a single family residence.

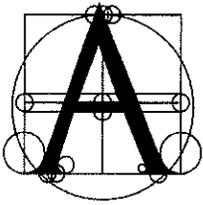
- g) The requested variance is the minimum necessary to permit reasonable use of the land.

The proposed variance is the minimum for providing first floor living space with a possible first floor master for aging in place with bedrooms above and a detached garage. There is no basement so additional space is included for storage.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.

*Theresa Angelini* *3/8/2018*  
 Owner's Signature                      Date

Theresa Angelini Digitally signed by Theresa Angelini Date: 2018.03.08 09:32:55 -05'00'  
 Appellant's Signature                      Date



RECEIVED

MAR 12 2018

Boston Residence Variance Requests – 9658 Zukey Drive, Hamburg Township, MI

We respectfully request the following variances:

Hamburg Township  
Planning and Zoning Department

**House:**

1. Variance to build within the 50' setback from the high-water mark. Section 7.6.1 Footnote 3.
  - The front of the existing house is currently 31.2' from the water's edge.
  - The proposed construction would locate the front of the house at 34'-5" +/- from the water. (which is a greater setback than exists)
  - The vast majority of houses (almost all of them) in this area are built within the 50' high water setback.
  - The proposed construction respects the 30' rear yard setback.
  
2. Variance for side yard setback. Section 7.6.1 Footnote 4.
  - There is a platted drive to the north of the property that was never developed as a drive.
  - This platted drive could be interpreted as a "corner" lot, which increases the setback from 10' to 25' to match the front yard setback.
  - Since the adjacent property to the north appears to have no potential for development as a paved drive or street, we ask that the side yard setback be reduced to the standard side-yard setback of 10'.
  - The proposed construction locates the side of the house at 11' from the north property line.

**Angelini  
& Associates  
Architects**

113  
East Ann Street  
Ann Arbor  
Michigan 48104  
Voice  
734 998-0735  
Fax:  
734 998-0319

**Garage:**

3. Variance for new roof structure on garage. Section 8.3.
  - The northeast corner of the existing garage was originally constructed over the lot line by 0.8'
  - The proposed garage modifications are to replace the existing roof structure with steeper pitched attic trusses to allow for storage, since there is no basement under the house. The height of the garage will be under the height limit of the zoning code.
  
4. Variance for addition to rear of garage. Section 11.3.2.
  - In conjunction with the roof replacement is the addition of a stair at the rear of the garage for access to the new storage area within the attic trusses. The stair is a safer alternative to access the attic than a pull-down attic staircase.
  - Approximately 73% of the existing walls will remain while the west wall and existing west garage addition will be removed to accommodate the new stair.
  
5. Variance for pergola on north side of garage. Section 8.3.
  - An open pergola, attached to the north side of the garage, is also proposed. The east edge of this pergola would come to within 9'-5" +/- of the lot line abutting the street.



10405 Merrill Road ♦ P.O. Box 157  
Hamburg, MI 48139  
Phone: 810.231.1000 ♦ Fax: 810.231.4295  
www.hamburg.mi.us

### DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case #     ZBA18-004     located at     9658 Zukey Drive     and offer the following:

[ ] The parcel is not on sewers.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

- The property owner is requesting variance to allow for a partial demolition of the existing home and for construction of a new 3,873 square foot home requiring both the 50-foot high water set-back and a side yard set-back variance.
- The grinder pump station and sewer service lateral are located on the southeast side of the property. The sewer service lateral was installed underneath the existing garage when the sewers were installed around Strawberry Lake in 1995 (see attached sketch).
- Based on the “as-built” drawing for the grinder pump station and sewer service lateral locations, the requested variance to construct the accessory building will not further interfere with the sanitary sewer structures. Be advised, the homeowner shall be responsible for all costs associated with any damages caused to the grinder pump station or the sanitary sewer service lateral during construction of the property improvements.
- Due to the existing on-site situation regarding the sewer, the DPW/Utilities Department has no objections if this variance is granted.
- The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.

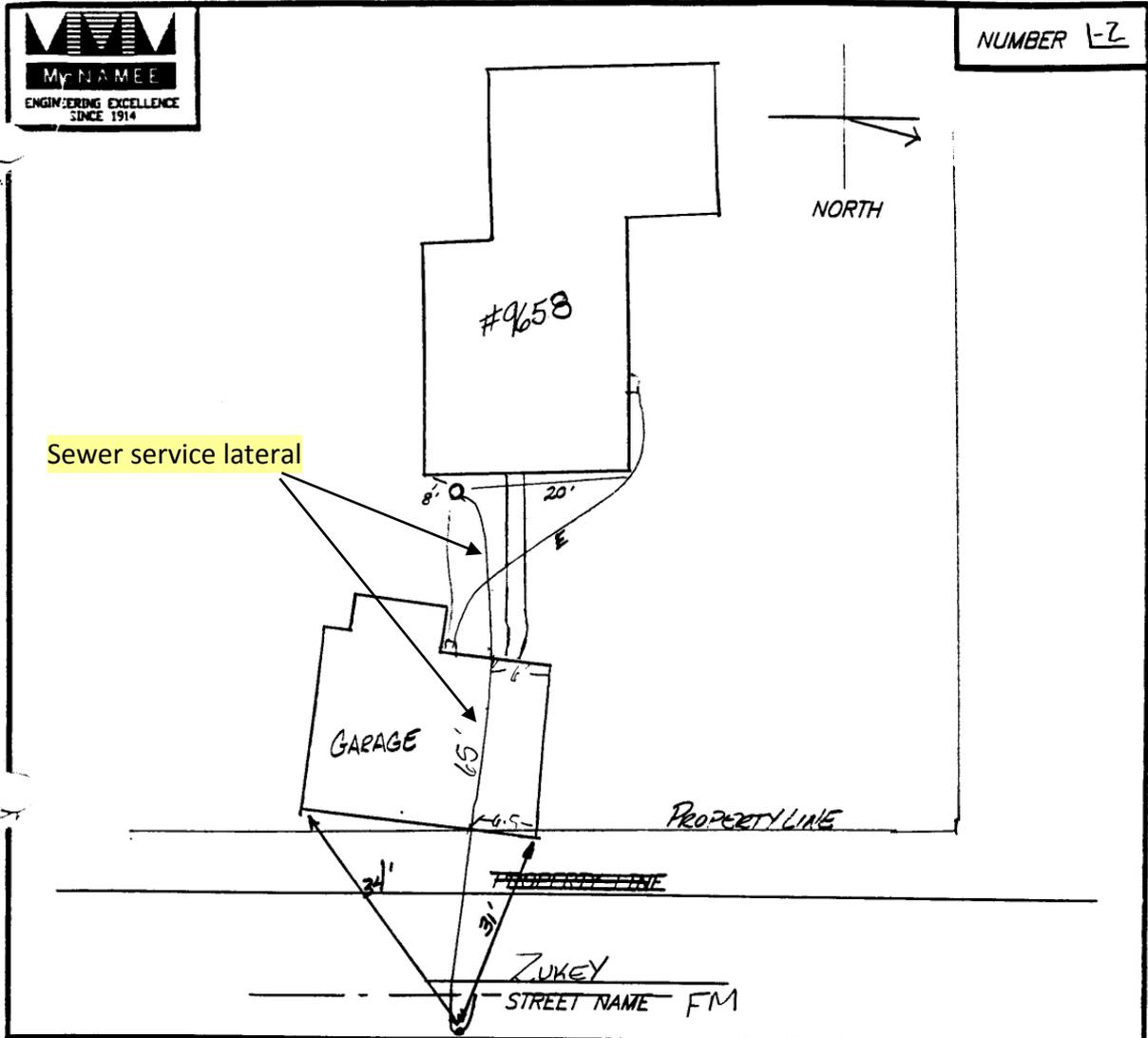
Dated:     March 26<sup>th</sup>, 2018    

Respectfully submitted,

\_\_\_\_\_  
Brittany K. Campbell

Hamburg Township Utilities Coordinator

The proposed accessory structure will not pose any further issues with the existing location of grinder pump station and/or service lateral. The Utilities Department has no objections to the request for variance.



HOME OWNERS NAME: ROGER LOSEY

ADDRESS: 9656 Zukey Dr.

PROPERTY TAX NO.: 15-22-301-001

WAS OCCUPANT INVOLVED IN LOCATION OF SERVICE? YES  NO

CONSTRUCTION PLAN SHEET NO.: 1

COMMENTS: service lat 7/24

**ITEMS TO BE SHOWN ON SKETCH**

1. LOCATION OF CORPORATION STOP/CHECK VALVE WITH WITNESSES.
2. FORCE MAIN ROUTE FROM PROPERTY LINE TO HOUSE.
3. \_\_\_\_\_
4. \_\_\_\_\_

DATE INSTALLED: 6-2-95

PROJECT NAME: Strawberry Lake LPCS

CLIENT/CONTRACT NO.: 351.28-S-1

INSPECTOR: JVR

**GRINDER PUMP LOCATION SHEET**

1: G:\PMP\LOC.DWG 01-16-95 KMU 1  
 1: P:\S\95951.DWG

NUMBER LZ



P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139-0157

(810) 231-1000 Office  
(810) 231-4295 Fax



**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, March 14, 2018 Minutes  
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:, Hollenbeck, Neilson, Priebe, Watson and Auxier, as alternate

Absent: Bohn, with notice

Also Present: Amy Steffens, Planning & Zoning Administrator & Brittany Jacobs, Zoning Coordinator

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Watson, supported by Neilson

To approve the agenda as presented

Voice vote: Ayes: 5    Nays: 0    Absent: 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 2018-003

Owner: Michael and Karen Basile

Location: 8606 Riverside Drive

Parcel ID: 15-13-403-003

Variance application to allow for the construction of a 2,208-square foot dwelling with a 13.5-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 31.1-foot setback from the ordinary high water mark of Ore Lake (50-foot setback from the ordinary high water mark required, Section 7.6.1.).

Jennifer Shulte & Ali Wiener representing the property owners, reviewed the process the applicant followed to file for the variance. They stated that this home would be built utilizing the property the best the architect could design based on the configuration of the lot, the location of the grinder pump, and the location of the homes on the neighboring properties.

Steffens presented the staff report and discussed each finding of fact. Steffens indicated that there was previously a home on the lot that conformed to all of the setback standards, as shown on the plot plan of the home that was demolished and that the proposed location of the home is based on preference and not a condition of the lot. The proposed covered porch would have a setback of 31.1 feet, where a 50-foot setback from the OHM of Ore Lake is required. Additionally, the home would have a 13.5-foot rear yard setback, where 30 feet is required. The dwelling itself would encroach only by four feet, which might be a reasonable deviation from the ordinance but the proposed covered porch creates a self-imposed practical difficulty and should be removed.

Priebe opened the hearing to public comment. Hearing none, Priebe asked the Board for questions and comments.

Nielson and Watson expressed concern that the proposed dwelling was too large for the lot and that is why the variance was necessary. Auxier asked how many variances were necessary; staff answered that the legal notice included the biggest setback variance needed, for the covered porch, but that the board could find the house's setback to be a reasonable deviation.

Shulte and Wiener asked about tabling the covered porch until the homeowner could appear and voting on the house setbacks. Staff suggested that, based on the comments from the Board, the covered porch would not be approved and should be withdrawn at the hearing. Applicant's representatives withdrew the setback variance request for the covered porch. In response to the Board's questions, agents indicated that the covered porch was necessary for the homeowner's mother to sit outside and the footprint of the home could not be shifted toward the road, as staff suggested, because the grinder pump would need to be located. Nielson indicated that the grinder pump could be relocated.

Watson asked about the floodplain issues; staff said that the homeowner had submitted a topographic survey showing the entire parcel to be in the 100-year floodplain and the owner was aware of the floodplain restrictions.

Motion by Neilson, supported by Watson

Motion to approve variance application ZBA 18-003 at 8606 Riverside Drive to allow for the construction of a 2,208-square foot dwelling with a 46.2- foot setback from the ordinary high-water mark of Ore Lake (50-foot setback from the ordinary high-water mark required, Section 7.6.1.). The variance does meet variance 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 as discussed at the meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

## 8. New/Old Business:

- a. Approve November 8, 2017 meeting minutes and memorialization of findings for ZBA 17-021.

Motion by Auxier, supported by Neilson

To approve the November 8, 2017 minutes and memorialization of Findings for ZBA 17-021

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

- b. Approve February 14, 2018 meeting minutes and memorialization of findings for ZBA 18-001

Motion by Neilson, supported by Watson

To approve the February 14, 2018 minutes and memorialization of Findings for ZBA 18-001

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

**9. Adjournment:**

Motion by Watson, supported by Neilson

To adjourn the meeting

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

The meeting was adjourned at 7:54 p.m.

Respectfully submitted,

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Recording Secretary

The minutes were approved

As presented/Corrected: \_\_\_\_\_

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Joyce Priebe, Chairperson



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P.O. Box 157  
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Hamburg, Michigan 48139

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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**March 14, 2018**

**Approval of Variance (18-003)**

**Project Location:** 8606 Riverside Dr.  
(TID 15-13-403-003)  
**Agent:** None  
**Owner:** Michael and Karen Basile

**PART I – PROJECT DESCRIPTION**

Variance application to allow for the construction of a 2,208-square foot dwelling with a 13.5-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 31.1-foot setback from the ordinary high-water mark of Ore Lake (50-foot setback from the ordinary high water mark required, Section 7.6.1.).

At the hearing, the covered deck was removed from the variance request.

**PART II– FINDING FOR APPROVAL**

The Zoning Board of Appeals approves the project described above because the Board finds that the project complies with the applicable standards of the township ordinance including the applicable variance standards as follows:

**Variance Standards**

- 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 new home will encroach 3.8-feet into the required 50-foot setback from the ordinary high-water mark of Ore Lake, creating a 46.2-foot setback from the ordinary high-water mark. Because of the size of the subject lot, 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.

- 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.**

The site is zoned for single-family residential uses. The new dwelling will be 2,208-square foot with a 46.2-foot setback from the ordinary high-water mark of Ore Lake.

- 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 3.8-foot encroachment into the ordinary high-water mark of Ore Lake for a 46.2-foot setback. The reduced setback will have minor impacts on the visual appearance of the property from the adjacent homes to the East and West. The East home will be in line with this new home on the rear yard.

- 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 in the Northeast Hamburg/Winans Lake planning area of the Master Plan. This area envisions medium density residential development in the developed areas around Ore Lake. The purpose or objectives of the master plan will not be adversely affected.

- 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 analysis under standard one.

- 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 permitted use of the site is single-family residential and the proposed variance would not change the use.

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

The property design of the proposed new dwelling creates the difficulty to build the home within the required 50-foot ordinary high-water mark setback. The dwelling will be 46.2-feet from ordinary high-water mark and will have minor impacts on the visual appearance of the property from the adjacent homes and the maneuverability within the subject site.

Approval by the Hamburg Township Zoning Board of Appeal at a regular meeting on March 14, 2018 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Auxier, Neilson and Hollenbeck
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS	