

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

**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, February 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: Bohn, Hollenbeck, Neilson, Priebe and Watson

Absent: None

Also Present: Amy Steffens, AICP, Planning & Zoning Administrator

4. Correspondence: None

5. Approval of Agenda:

Motion by Neilson, supported by Watson

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 2018-0001

Owner: Michael Mulvihill

Location: 3686 Colonial Drive

Parcel ID: 15-29-403-021

Request: Variance application to permit construction of a second-story addition to a nonconforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.2.) to match the non-conforming east side yard setback of the existing dwelling.

Mr. John Mulvihill, Attorney representing the property owners, reviewed the process the applicant followed starting in August 2017. He stated that this is an older house which needs substantial updating. They have lived there for the past 21 years and plan to stay for the foreseeable future. Jeff Hoard, builder submitted plans for the updating in 2017 and never received a reply. He called several times and never received a call back. He came in a month later and was told that he needed to submit a variance request. He submitted an

application and waited and received no response. He came back in and was told that they needed to combine the two lots. In November 2017 the ordinance was amended and the plans they submitted no longer complied to the new ordinance. They came in and met with Supervisor Hohl and Mike Beck of the Zoning Department. They were presented with a memo indicating additional detail was requested. The only variance mentioned in that memo is for a front porch overhang that encroached into the 25' front yard setback by one foot. There is no reference of having to combine the lots. Further, there is no mention of a variance needed for the second floor expansion. They never saw the memo. They could have done what was requested and been on the agenda for September or October before the ordinance amendment. They feel that they have not been treated fairly and feel that they should be treated under the ordinance at the time the application was submitted. What it says now is that if it is a non-conforming lot, even if they are not changing the footprint, if you put on a second story, you have to make it compliant with the new ordinance. He discussed the review letter from Amy Steffens relating to the standards of review. He stated that the addition is only 520 square feet and is not going to dwarf the existing house or any house in the neighborhood. They are not doing this for financial gain. Ms. Steffens indicates that it would only require minor modifications to the plans to make the addition compliant. However, there is some real practical difficulty to adjusting these plans to comply with the 10 foot side yard setback. There is a chimney on the east wall which is a load bearing wall. To move that back 6 feet would create some problems and create some structural issues. There is no impact to the public welfare or detriment to the houses in the area and has not impact on the Master Plan. Again, Ms. Steffens has stated that it would be a minor modification to the plans to meet the setback, and they do not feel that is the case. They feel that the Township is required to address this as the plans submitted back in August of 2017 under the ordinance in place at that time. There is no excuse after the plans were submitted in August that there was no decision made on it until November. He is not suggesting that this was done intentionally, but if they have to go through and amend their plans, it will pose a real hardship and financial issues.

Planning & Zoning Administrator Steffens stated that she appreciates that Mr. Mulvihill is not suggesting that they sat on this application. That is not the way their department works. They would never intentionally hold up someone's permit. She stated that the application was made in August. However, the plans did not match the aerial that they had and there was missing information on the application. At the time, what was required was a variance to the 50% rule.

Member Bohn stated that he means no disrespect to Mr. Mulvihill or what happened, but he would request that the report be limited to the variance request that the Board can act upon. Mr. Mulvihill can choose whatever recourse available. Ms. Steffens stated she did not want to leave the impression that action was not being taken on this plan. She stated that the lot is fairly sizeable for a lot within the WFR zoning district. It fronts Colonial Drive to the northeast and a vacant lot used by the Whitelodge Country Club to the north and single family homes to the west, east and south. The footprint of the house is 1,737 square feet with 576 square foot attached garage. The Assessor's office categorizes this as having a ¾ story, 643 square feet of living space. On November 9, 2017 the Township Board voted to amend the ordinance which now requires that anything being added to a non-conforming structure has to meet the setbacks. That is why the Mulvihills are here. It is a non-conforming structure which has a 4 foot east side yard setback. They want to continue the footprint and go up to a full 2nd story. We are not talking about simply an additional few hundred square foot, but rather the bulk of the structure is going to be at that 4 foot setback. She reviewed the findings of fact, which is what the board must determine when considering a request. She stated that most of our variance requests are within the waterfront district, which typically are small lots and are usually non-conforming. It is not unusual to have a non-conforming setback. Continuing that non-conforming setback going up would be in character of the homes within the vicinity. We are not simply looking at the site plan, but rather the impact of the entire project. Staff believes that it is impactful to the adjacent properties. Granting the variance would increase the nonconformity and that was the point of the zoning text amendment. It is intended to phase out nonconforming structures and bring them into conformity with the current setback requirements. The other piece of the ordinance that was amended was the width and setback requirements. If the lot is less than 60 feet, then we would go back to the side-yard setback of 15 feet, no less than 5 feet. This lot is 80 feet wide so it does not meet that. Therefore, it has to comply with the 10 foot setback. We were not provided an existing interior floor plan nor existing elevations, however staff believes that there are alternate designs that could meet the required setbacks or at least re-designed so that the bulk of the structure is not at

that 4 foot setback the entire length of the house. Mr. Mulvihill indicates that they have lived there for over 21 years which shows that the house can be used as single family purposes and could continue to be used for that purpose. The variance is not the minimum necessary to use the lot, and there are other alternatives to the plan that have been submitted.

Member Bohn asked if there is an existing chimney. Mr. Hoard, Builder, stated that there is an existing chimney. To meet code, the chimney would have to be a minimum of 2 feet above the roof line.

Discussion was held on the memorandum from Mike Beck that did not get to the applicant. Member Neilson stated that on behalf of the Township, he apologizes that happened. That is not the way the Township operates.

Chairperson Priebe opened the public hearing. Hearing no comment, she closed the public hearing.

Mike Mulvihill, applicant, stated that they have lived in the house for the past 21 years. They love the neighborhood and always intended to upgrade the home and live there into the future. The home was built in the 1950s and needs to be re-done. They have come up with a beautiful design and everything was supposed to comply with the ordinance. It is a bungalow and they are only moving up 8 feet. They are not changing the foot print at all. The neighbor's house is a 2-story that spans the whole length of the house.

It was stated that these buildings will always be 4 feet apart whether there is a second story or not. The home to the east is already a two-story, therefore building a second story on this home will not change the aesthetic.

The question was asked if we received any feedback from the neighbors. Steffens stated that we received an email from the neighbors to the east. Their concern was the fire hazard. She has spoken to the Livingston County Building Department and their concern too is fire. When a structure is less than 5 feet from the property boundary, it must be a fire-rated wall.

Discussion was held on a drainage plan. Steffens stated that the grade of the property is not changing. If they were adding a garage and a driveway, we would require an engineered drainage plan. She further stated that gutters are not required under the residential building code.

It was stated that the builder has pointed out that the site is unique given the existing fireplace.

Chairperson Priebe pointed out that even in August, the addition could not have been built without a variance not only because of the 4 feet, but also the 50% rule. We have actually made it easier even though it may not seem that way.

Motion by Bohn, supported by Watson

Motion to approve variance application ZBA 18-001 at 3686 Colonial Drive to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling. The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance as discussed at tonight's meeting, most notably the existence of a historic chimney and the requirement that there be substantial support if it were to be free-standing and that it would remain at the 4 foot setback and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the tonight's meeting 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

b. ZBA 2018-0002

Owner: Timothy Hutchins
Location: 11272 Algonquin Drive
Parcel ID: 15-31-102-011

Request: Variance application to permit the construction of a 426-square foot addition to the east façade of an existing dwelling and a 6-foot by 7-foot detached roofed structure between the addition and existing detached garage. The addition will have a 4.8-foot separation and the roofed structure will have a zero-foot separation from the existing garage (an accessory building which is detached from the principal building shall not be located nearer than 10 feet to any separate building or structure on the lot, Section 8.3.4.).

Mr. Tim Hutchins, applicant, stated that he purchased this home in August. Prior to doing so, he came in and talked with the Zoning Department about what he wanted to do. At that time, they indicated that although they could not give any assurances, what he wanted to do could be done without a variance. He came in with his proposal and found out that he did not need a variance until he went to the County. They require a 42 inch footing on the garage to attach the roof with a small breeze-way to meet the Township Ordinance that no two structures can be within 10 feet of each other. He is attempting to make this look like the two buildings are tied into one. If you were to have unlimited resources, the lot could be reconfigured to change the addition and tear off the existing roof. However, what he is able to do is add a 426 square foot addition, not tear off the existing roof and just put a new roof on the addition.

Planning & Zoning Administrator Steffens stated that this site is slightly over 8,000 square feet fronting on Algonquin Drive on the east and Portage Lake to the west and single family dwellings on either side. This is a typical waterfront lot that we see so many of. Mr. Hutchins is correct. We did give him a permit for exactly what he wants to do. The ordinance requires a 10 foot separation from the dwelling to any detached accessory structures, but if you attach it via the roof line, you can be closer than 10 feet. When he went to the Building Department, they required 42 inch footings on the garage. The reason that is in place is if you attach your house which has 42 inch footings to a structure that does not, and the structure that does not heaves, it is going to impact the house. Even if they are not attached via the roofline, if they are touching, they have to have the 42 inch footings. What is being proposed now is the same exact thing that we issued a permit for, but without the attached breezeway. Now he is proposing a freestanding covered walkway between the two structures. Because they are no longer attached, we have to apply the 10 foot separation requirement. We still have to find that practical difficulty exists. The point of the 10 foot separation is to provide ease of movement, etc.

Discussion was held on the lack of definition of an attached structure.

Discussion was held on the applicant's options. He could remove a portion of the garage, install the footings or provide the 10 foot setback. It was stated that the applicant has provided an alternate solution.

Chairperson Priebe opened the public hearing. Hearing no public comment, the public hearing was closed.

Discussion was held on the reason for the 10 foot separation. Discussion was held on separation for fire and emergency services. Steffens stated that if you ask the fire department, they will say that they will get to it no matter what. She further stated that it is also for aesthetics and free movement around the structures. If he provided the 42 inch footings, he could enclose that breezeway as well. It was stated that there is the park on the one side as well, so it is open.

Motion by Neilson, supported by Watson

Motion to approve variance application ZBA 18-002 at 11272 Algonquin to permit the construction of a 426-square foot addition to the east façade of an existing dwelling and a 6-foot by 7-foot detached roofed structure between the addition and existing detached garage. The addition will have a 4.8-foot separation and the roofed structure will have a zero-foot separation from the existing garage

(an accessory building which is detached from the principal building shall not be located nearer than 10 feet to any separate building or structure on the lot, Section 8.3.4.). 5 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 the tonight's meeting 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: None

9. Adjournment:

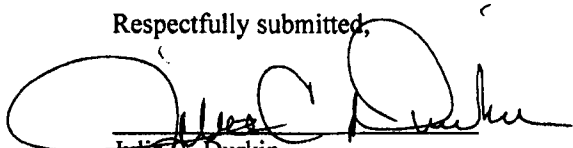
Motion by Hollenbeck, supported by Watson

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,



Julie C. Durkin
Recording Secretary

The minutes were approved

As presented/Corrected: 3-14-18



Joyce Priobe, Chairperson



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

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

**ZONING BOARD OF APPEALS
MEMORIALIZATION OF FINDINGS**

February 14, 2018

Approval of Variance (18-001)

Project Location: 3686 Colonial
(TID 15-29-403-021)
Agent: None
Owner: Michael Mulvihill

PART I – PROJECT DESCRIPTION

Variance application to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling.

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 existing dwelling was constructed with a non-conforming side yard setback, and many of the homes in the vicinity of the site were constructed with reduced side yard setbacks, and an existing chimney would make expansion of the second story with a conforming side yard setback difficult and therefore there are circumstances applicable to the property involved.
- 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.**

Due to the existing and neighboring home to the east being two-story, adding additional second story living space on this home would afford a substantial property right possessed by other properties in this zone.

- 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 there are no physical footprint expansions of the house, there would be no impact to the public welfare or detriment to the houses in the area and have no impacts to the surrounding zone or district.

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

The Master Plan envisions WFR districts a transition to lower density residential areas. 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.**

A second story addition to the existing non-conforming home is a customary residential use and will not be impactful to neighboring properties.

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

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



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

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

**ZONING BOARD OF APPEALS
MEMORIALIZATION OF FINDINGS**

February 14, 2018

Approval of Variance (18-002)

Project Location: 11272 Algonquin Drive
(TID 15-31-102-011)
Agent: None
Owner: Timothy Hutchins

PART I – PROJECT DESCRIPTION

Variance application to permit the construction of a 426-square foot addition to the east façade of an existing dwelling and a 6-foot by 7-foot detached roofed structure between the addition and existing detached garage. The addition will have a 4.8-foot separation and the roofed structure will have a zero-foot separation from the existing garage (an accessory building which is detached from the principal building shall not be located nearer than 10 feet to any separate building or structure on the lot, Section 8.3.4.).

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 addition will extend east off the main structure and will be built 4.8 feet from the existing detached garage, and a free-standing covered structure will be located between the addition and garage. The ordinance requires a ten-foot separation between the dwelling and detached accessory structures.. Because of the location of the existing structure on 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.**

There is an existing 1,025 square foot house on the subject site with a 362 square foot detached garage. The addition conforms to the required setbacks; however, it will be within a distance closer to an existing detached garage less than the required 10 feet setback, and the free-standing structure will have a zero-foot setback from the dwelling. Both the addition and the covered walkway will be in character with the surrounding properties.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The reduced space between the home and the detached garage will have minor impacts on the visual appearance of the property from the adjacent home to the North and South; however, as stated earlier most of the views from these properties are taken towards the lake and not towards the subject site.

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

The Master Plan envisions WFR districts a transition to lower density residential areas. 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 proposed addition and free-standing covered structure, both with reduced separation distance to the existing garage, 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 February 14, 2018 by the following vote:

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