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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, September 11, 2024 at 7:00 PM
Hamburg Township Hall Board Room

MINUTES

CALL TO ORDER

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

PLEDGE TO THE FLAG

ROLL CALL OF THE BOARD

Members PRESENT:

Brian Ignatowski
Benedict Russell
Jason Negri
Joyce Priebe, Chair
William Rill

ABSENT: none

CONSENT AGENDA

Approval motion to approve Zoning Board of Appeals Agenda for tonight as presented was made by Treasurer Negri, supported by Member Ignatowski.

Voice Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

GENERAL CALL TO THE PUBLIC-

NONE

CURRENT BUSINESS**1. ZBA 2024-005**

Owner: Benjamin Cameron

Location: Beach Ln.

Parcel ID: 4715-33-110-174

Request: Variance application to permit the construction of a single-family home.

Applicant requests a 20.2-foot variance from the required wetland setback of 50 feet., per Section 36-293(C)(2) a.

Chair Priebe invited the applicant to the podium to present their variance request. He just stated that the wetland that is in the corner of the parcel is a very limiting factor to do much with the parcel. This is why he is seeking this variance. After the applicant finished his opening statement, Chair Priebe invited David Rohr to present his staff report on this case.

David presented that the wetland delineation showed that a substantial amount of this parcel is a wetland. There is a small sliver of usable land on the southwest corner of the lot. In order to build a single family home onsite, he will need relief from the 50-foot setback from wetlands to do this project. David said that staff supports this variance request.

Chair Priebe invited the ZBA Members to ask questions or make comments before she opened the meeting to public comment. None of the commissioners had anything to say. Chair Priebe opened the ZBA Meeting to public comment, but no one was present, so she immediately closed that portion of the meeting. She again opened the meeting to the board members. Chair Priebe said she was out onsite to review the site plan for this variance request. She commented that there were several deer out there by her car. She stated that the home would not be able to have a basement even though the proposal mentioned one.

Member Ignatowski asked the applicant if he noticed that the wetland soils get wet anytime during the year. The applicant said he has been there for over 1 ½ years and he has never seen an amount of water that would be concerning regarding the build of a slab home onsite, except for that wetland corner that is low lying. He said that the lot is higher than the road itself. Member Ignatowski asked the applicant if there was going to be any filling of the lot for this project. The applicant said that with the footings, that there would be no need for a lot of fill.

Treasurer Negri asked David for some clarification regarding the permeability of the wetland after building near or on such locations. If the ZBA waived the 50-foot setback from the wetland, would this take into account the less permeability of the soil? David responded to Negri by stating that if the applicant did receive this variance to build closer to the wetland, he and his builder would still be required to maintain the storm water that the parcel has onsite through bioswales or French drains or moving the storm to another part of the parcel. Negri continued by asking, "if it is the homeowner's responsibility to mitigate the water run-off, isn't that going to exacerbate potential flooding in the wetlands area in the community or the road?" David answered Negri by saying that the applicant would be responsible to manage the storm water onsite. Treasurer Negri expressed his concern that adding a home to this parcel would further cause flooding to this area due to the impermeable surfaces like the roofs and driveways.

David reminded Negri that if we have concerns that the applicant will not be able to manage the stormwater onsite, then we will require him to mitigate that stormwater, so it is managed onsite. We request that the applicant provide a grading plan with contours so that our township engineer can review the grading of the project to ensure that these requirements are being met before we issue such permits. David said that these wetland parcels are last to be developed and so they are burdened with the surrounding, previously developed parcels of land. These applicants are dealing with an additional burden.

Chair Priebe reminded the ZBA members that the Livingston County Building Department will require that the applicant apply for a soil erosion permit with the Livingston County Drain Commission to ensure they have silt fences. They will look at these issues before they even start. She had worked in a building department before being on the ZBA board. David also stated the EGLE (Environment, Great Lakes and Energy) will also require permits with projects in close approximately to wetlands. Member Ignatowski **wanted to confirm that there are other agencies reviewing these types of requests as well.**

Chair Priebe asked if anyone else had any questions or comments. Treasurer Negri asked if anyone else had an issue with someone purchasing a lot in a wetland, and then they file for a variance to build there. Are we encouraging this type of behavior? Chair Priebe explained that these applicants sometimes have a parcel that is not buildable, but they have certain rights to build with a variance. If a government doesn't allow someone to build on that parcel, it is considered a taking. Treasurer Negri, who is also a lawyer, stated that not granting a variance is not considered a taking. Chair Priebe said that she saw that if someone purchased a wetland parcel and then took care of it, as advantageous to the township.

Member Ignatowski said that the ZBA is trying to be thoughtful and considerate in ensuring that the applicant exercises care with whatever project they are proposing near a wetland. Treasurer Negri asked if the ZBA has ever denied a variance regarding a wetland setback. Chair Priebe said yes, but very few. Negri said he has been on the ZBA board for the past two years and he has not seen the ZBA deny such a request. Member Ignatowski said that this is not a big structure. Treasurer Negri stated that he could see if the structure was proposed much smaller than it is currently, he would approve such a variance. Member Ignatowski said that township residents should not have useless property. Negri expressed that he felt that when a resident purchases a parcel with a huge wetland, that we are encouraging them to come before the ZBA for approval to build in the wetlands.

David explained that the applicant must demonstrate a hardship regarding the parcel, such as its topography. When adhering to the zoning ordinance as presented, essentially makes this parcel unbuildable. If the applicant can demonstrate such a hardship, then that is the whole process of the variance with the ZBA. It is a permission to break the law in these circumstances because of the uniqueness of this property. Chair Priebe said that most of the variances that the ZBA gets is based on the limitations of the land. She said we get some hard things. We look at these difficulties and then determine practical hardships and get applicants some relief. David said that staff can't administratively squeeze the project on the parcel, so the ZBA is their last resort as top get something built. Negri said it sounds like the ZBA is trying to make it their goal to allow building in the wetlands a goal. David said that staff at all agencies are trying to administratively approve projects that follow their rules, and laws without making applicants go to extra boards, jump more hurdles, add more costs. When staff can't administratively approve proposals, then that is why the ZBA exists.

Chair Priebe said that when she was appointed to the ZBA board, they had about 8 variances per meeting. The changes that they have implemented regarding ordinance over the years has prevent so many variances. The applicant also mentioned that over 10 years ago that sewers were installed, making many properties more developable than before.

Approval motion by Member Ignatowski, seconded by for variance application ZBA #24-0005 at Beach Ln. TID# 15-33-110-174. Applicant is requesting a 20.2-foot variance from the required wetland setback of 50 feet per section 36-293 (C) (2) a. According to the ZBA board, this variance meets variance standards one through seven of Section 36-137 of the Hamburg Township Zoning Ordinance, and a practical difficulty exists on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at the meeting this evening, and as presented in this staff report.

Voice Vote: Ayes (4) Nays: (1) Treasurer Negri

VOTE: MOTION CARRIED

APPROVAL OF THE MEETING MINUTES

Approval motion to approve the April 10, 2024, ZBA meeting minutes as presented by Treasurer Negri, seconded by Member Ignatowski.

Voice Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

Approval Motion to adjourn at 8:23 pm made by Member Ignatowski, supported by Member Rill.

Voice Vote: Ayes: (5)

VOTE: MOTION CARRIED UNANIMOUSLY

Respectfully submitted,


Lisa Perschke

Planning/Zoning Coordinator & Recording Secretary

David Rohr

Planning & Zoning Director

The minutes were approved as presented/corrected: 10-9-24


Joyce Priebe, Chair