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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, January 11, 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:**

Jim Hollenbeck (Alternative)

Jason Negri

Joyce Priebe, Chair

William Rill

Deborah Mariani

##### **ABSENT:**

Craig Masserant

#### **CONSENT AGENDA**

**Approval Motion** made by Member Negri, Seconded by Member Mariani, to approve Zoning Board of Appeals Agenda for tonight, with address correction to be made to address 3624, to the correct address of 3264 Rush Lake Rd.

Voice Vote: Ayes: (5) Nays: (0) Absent: (1)

VOTE: APPROVAL MOTION CARRIED UNANIMOUSLY

#### **GENERAL CALL TO THE PUBLIC-**

##### **Variance requests**

a. **ZBA 2022-0013**

Owner: Eugene Bough  
Location: 3264 Rush Lake Road  
Parcel ID: 15-17-302-088  
Request: Variance application to allow the construction of a 62" tall retaining wall 35 feet for the ordinary high-water mark (OHM) of Rush Lake where 50 feet is required by the code (Section 36-293 (c)). Also, section 36-227 (b) of the Zoning Ordinance only allows a 48-inch-tall wall between the primary structure and the SO-foot waterbody setback and the proposed wall is 62-inches tall.

Amy Steffens, zoning administrator, presented the staff report and recommendations.

Priebe opened the public hearing.

Erica Shell of Bodman PLC presented on behalf of a neighboring homeowner who lives at 3276 Rush Lake Rd. She stated that this variance request would create a Nuisance Per Se, to rectify a self-created problem of a retention wall that exceeds the length and the height and does not follow the previous variance given to Mr. Bough last year by the ZBA board.

Priebe closed the public hearing.

Treasurer Negri asked the neighboring homeowner with lawyer representation what her concerns were with tonight's variance hearing. She said that the patio is well over her head when she is out in her back yard, making her uncomfortable.

Member Rill asked the applicant what the builder's reasoning was for raising the house 16 inches and creating the retaining wall. Mr. Bough said that builder raised the house due to the run off coming from the home, and the proposed retaining wall was to retain the soil from the lake. The project costed \$20,000 more than the Bough's had anticipated. The applicants let Member Mariani know that the builder, told the applicants to make sure they did not need a land use permit before the Final C of O for the home was sought. The applicants came into Hamburg Township to check and see what was needed if anything. If the applicants had knew that this was needed, they wouldn't have done it.

A **Denial Motion** was made by Member Negri, seconded by Member Mariani, to deny the variance request ZBA# 22-0013 at **3264** Rush Lake Road to allow the construction of a 62" tall retaining wall 35 feet for the ordinary high-water mark of Rush Lake where 50 feet is required by the code (Section 36-293 (c)). Also, section 36-227 (b) of the Zoning Ordinance only allows a 48-inch-tall wall between the primary structure and the SO-foot waterbody setback and the proposed wall is 62-inches tall. The variance requested is denied because the proposed project does not meet variance standards (1 through 5) of Section 6.5 of the Hamburg Township Zoning Ordinance, especially point #5, and a practical difficulty does not exist on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at tonight meeting, and as presented in the staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

Voice Vote: Ayes: (5) Members Hollenbeck, Negri, Mariani, Priebe, Rill      Nays: (0)      Absent: (1)

**VOTE: DENIAL MOTION CARRIED UNANIMOUSLY**

AC of O has been issued for the home already. Steffens requested that the homeowner come into the office within 14 days to discuss what they will do to resolve this issue. A Performance Agreement that the applicant's signed before this variance hearing states the applicant have 6 months to rectify this issue.

## APPROVAL OF THE MEETING MINUTES

**Approval Motion** made by made by Hollenbeck, seconded by Mariani the December 14, 2022, meeting minutes as presented.

Voice Vote: Ayes: (5) Members Hollenbeck, Negri, Mariani, Priebe, Rill Nays: (0) Absent: (1)

**VOTE: Approval MOTION CARRIED UNANIMOUSLY**

## UNFINISHED BUSINESS

1. None

## CURRENT BUSINESS

1. Hard copies requested for ZBA cases to be placed in the box outside.

## ADJOURNMENT

**Approval Motion** to adjourn at 7:33 pm was made by Member Negri, seconded by Member Mariani. Voice

Vote: Ayes: (5) Members Hollenbeck, Negri, Mariani, Priebe, Rill

**VOTE: Approval MOTION CARRIED UNANIMOUSLY**

Respectfully submitted,

**Lisa Perschke**

*Planning/Zoning Coordinator & Recording Secretary*

**Amy Steffens**

*Zoning Administrator*

The minutes were approved as presented: **3-8-23**



Joyce Priebe