

**ZONING BOARD OF APPEALS  
ROSS TOWNSHIP  
March 4, 2015**

The Ross Township Zoning Board of Appeals held its regular meeting on **March 4, 2015, at 5:30 p.m.** in the Ross Township Hall. Chairperson Carpenter called the meeting to order and noted those present.

Present:        Dave Carpenter, Chairperson  
                  Desmond Jones, Alternate  
                  Jim Lauderdale

Absent:         Ed Harvey

Also present:       Kelly Largent, AGS – Township Zoning Administrator  
                          Rebecca Harvey – Township Planning Consultant  
                          Rob Thall – Township Attorney  
                          Four (4) members of the public

APPROVAL OF AGENDA: On motion by Lauderdale, seconded by Jones, the agenda was unanimously approved as presented.

APPROVAL OF MINUTES: On motion by Lauderdale, seconded by Jones, the minutes of **May 7, 2014** were unanimously approved as presented.

NEW BUSINESS:

- 1) **Application for Variance**  
**Gregory and Charlene Schofield**  
**1985 Idlewild Drive**  
**Property Tax I.D. #3904-18-102-292**

Chairperson Carpenter stated that the next matter to come before the Board was the request by Gregory and Charlene Schofield for variance approval to make alterations to the exterior of an existing legal nonconforming accessory building which lies within the required side and rear yard setbacks. The subject site is located at 1985 Idlewild Drive and is within the R-1 Low Density Residential District.

Chairperson Carpenter explained that the proposal to ‘alter’ the existing legal nonconforming accessory building requires variance approval from Section 22.3 – Expansion of a Nonconforming Use or Building/Structure which prohibits the ‘*alteration of a nonconforming building/structure that, by itself, is not in conformity with the provisions of this ordinance.*’ He further noted that the existing legal nonconforming accessory building is currently located within the required side and rear yard setbacks and that variance approval from Article 15 – Schedule of Lot, Yard and Area Requirements is

also necessary to permit the proposed alterations. He referenced the ‘Summary Review’ of the request provided by Bert Gale of AGS, Township Zoning Administrator.

Gregory Schofield was present on behalf of the application. He introduced Brent Dykstra of AMDG Architects, project architect and Mike Scott, project builder. Dykstra provided an overview of the proposed building alterations. He noted the existing architectural design of the accessory building and then referenced the elevation drawings in highlighting the proposed exterior renovations. Dykstra emphasized that the proposed changes to the building facia and doors and windows will not constitute structural alterations to the walls nor serve to increase the footprint of the building. He further noted that the changes to the roof will actually serve to decrease both the existing average building height and the existing average eave height.

Dykstra stated that the proposed exterior alterations to the accessory building have been designed to complement the exterior design of the house currently under construction on the site and will enhance the property. He referenced photographs of an existing accessory building located at nearby 1909 Idlewild to demonstrate the envisioned exterior renovations.

Schofield stated that the new residence under construction on the site will include a single car attached garage. He explained that the proposed alterations to the existing accessory building will provide for additional ‘garage space’, as well as area for residential storage. Access to the new ‘garage space’ will be accomplished through a new circular drive and courtyard.

Lauderdale questioned how the existing average building height of 17 ft 6 in and the existing average eave height of 14 ft 4 in can be reduced without removing the roof. Dykstra explained that the proposed alterations will constitute a ‘false roof’ of sorts . . . constructed over the existing roof and providing roof slopes and eave heights in character with the new residence.

Lauderdale further questioned if topographic changes to the site or modifications to the existing floor elevation were proposed. Dykstra confirmed that no such changes were proposed. He noted that the average building height and average eave height (as defined in Section 2.2, Zoning Ordinance) will be reduced by virtue of the overall design of the new roof.

Chairperson Carpenter questioned the current use of the existing accessory building. Schofield explained that the first floor was previously used as a storage area; the second floor had consisted of 2 bedrooms – a kitchen – and bathroom. He stated that they intend to use the entire building for storage (with a garage space). Schofield emphasized that the building will not be rented out.

Chairperson Carpenter then noted correspondence of support for the requested variances received by Daniel Casey (1995 Idlewild) dated January 30, 2015.

No further public comment was offered on the matter. On motion by Lauderdale, and seconded by Jones, closing of the public comment portion of the public hearing was unanimously approved.

It was noted that Article 15 sets forth a maximum average building height requirement of 18 ft and an average eave height requirement of 10 ft within the R-1 District. It was further noted that the average roof height of the existing accessory building is represented as 17 ft 6 in and the average eave height of the existing accessory building is represented as 14 ft 4 in. In review of the 'proposed exterior renovation concepts' presented by the applicant, it was determined that the proposed alterations to the roof will result in an average building height of 14 ft 6 in and an average eave height of 8 ft 10 in, thereby rendering the building in conformance with applicable height requirements. The definitions of 'average building height' and 'average eave height' as set forth in Section 2.2, Zoning Ordinance were referenced to confirm the accuracy of the proposed building height measurements.

Lauderdale then moved to find that the proposed alterations to the roof of the existing accessory building, as represented by the applicant in the 'proposed exterior renovation concepts', will bring the accessory building into compliance with applicable average building height and average eave height requirements (as defined in Section 2.2, Zoning Ordinance) and will not require variance approval. Jones seconded the motion. The motion carried unanimously.

Board discussion then ensued wherein it was confirmed that three (3) variances are required to allow the proposed building alterations: 1) variance approval from Section 22.3 - to allow the proposed alteration of a nonconforming building that, by itself, is not in conformity with the provisions of the Zoning Ordinance; 2) variance approval from Article 15 - so as to permit the continued encroachment into the required side yard setback; and, 3) variance approval from Article 15 - so as to permit the continued encroachment into the required rear yard setback. It was agreed that the variance criteria would be considered for all three (3) variance requests at the same time and a single motion made for all three (3) requests.

Chairperson Carpenter led the Board through a review of Section 22.3 and the variance criteria set forth in Section 23.8 A. The following findings were noted:

***Alteration of a Nonconforming Building:***

*Per Section 22.3:*

- The proposed renovations will not result in an expansion or extension of the existing nonconforming accessory building.
- The proposed alterations are cosmetic renovations designed to complement the architectural design of the residence under construction on the site and to modify the storage capabilities of the building. The proposed renovations will not modify

the structural integrity of the building and so will not constitute *'alterations that substantially extend the otherwise reasonably anticipated useful life'* of the nonconforming accessory building.

***Alteration of a Nonconforming Building:  
Side and Rear Setback Requirements:***

*Per Section 23.8A.:*

- Practical difficulty in carrying out the strict letter of the Zoning Ordinance: *(exceptional narrowness, shallowness or shape of the property; exceptional topographic conditions; other extraordinary situation of the property)*
  - The subject property is an existing nonconforming building lot.
  - The existing accessory building is located within the required side and rear yard setbacks and is a lawful nonconforming building.
  - The proposed alterations will not increase any existing lawful nonconformity.
- Self-created hardship: *(practical difficulty not created by the applicant or a predecessor owner in the applicant's family):*
  - The substandard size of the lot and the location of the existing accessory building are not conditions created by the applicant.
- No substantial detriment to adjoining property:
  - The proposed alterations will not decrease the existing nonconforming setbacks and will render the building height and eave height conforming.
  - The proposed alterations will result in aesthetic improvements to the property.
- Not materially impair the intent and purpose of the Zoning Ordinance:
  - The proposed alterations will not decrease the existing nonconforming setbacks and will render the building height and eave height conforming.
  - The proposed renovations will not modify the structural integrity of the building and so will not constitute *'alterations that substantially extend the otherwise reasonably anticipated useful life'* of the nonconforming accessory building.
- Not materially impair the public health, safety and welfare:

- The proposed alterations do not constitute an increase in the area of the nonconforming building nor do they modify the existing nonconforming setbacks.
- The proposed alterations will serve to bring the average building height and average eave height into compliance with applicable standards.
- The proposed alterations will result in aesthetic improvements to the property and will not impair adjacent waterfront lots.
- The nonconforming building provisions are designed to eventually gain conforming situations . . . but the sliding scale approach adopted to apply to nonconforming lots around Gull Lake promotes improvement of otherwise nonconforming buildings.
- Exceptional circumstances applying to the specific property that do not apply generally to other properties in the R-1 District:
  - Nonconforming structures around Gull Lake are a recurrent situation . . . but they are not a general circumstance within the R-1 District.
- Condition/situation of the property not of a general or recurrent nature as to make reasonably practical a general regulation as part of the Zoning Ordinance:
  - Nonconforming structures around Gull Lake are a recurrent situation . . . but are not general to the Township as a whole.
  - Accessory structure text has recently been adopted to address general situations applicable to size and location of accessory structures.

It was reiterated that the above findings were based on the application documents presented and the representations made by the applicant and his agents at the meeting.

Lauderdale then moved to grant variance approval from Section 22.3 so as to allow the proposed alterations of a nonconforming building and from Article 15 so as to allow the proposed alterations of a nonconforming building within the required side and rear yard setbacks. Variance approval is granted based upon the findings of the Board pursuant to Section 22.3 and the variance criteria set forth in Section 23.8 A., Zoning Ordinance. Jones seconded the motion. The motion carried unanimously.

## **2) 2015-2016 Meeting Schedule**

Lauderdale moved to approve the proposed 2015-2016 meeting schedule and related filing deadline schedule of the Zoning Board of Appeals. Jones seconded the motion. The motion carried unanimously.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 6:35 p.m.

Respectfully Submitted,

Rebecca Harvey, AICP, PCP  
Township Planning Consultant