

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
September 6, 2017**

The Ross Township Zoning Board of Appeals held its regular meeting on **September 6, 2017, 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
 Jim DeKruyter
 Jim Lauderdale

Absent: None

Also present: Bert Gale, AGS – Township Zoning Administrator
 Kelly Largent, AGS – Township Zoning Administrator
 Rebecca Harvey – Township Planning Consultant
 Rob Thall – Township Attorney
 Five (5) members of the public

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

APPROVAL OF MINUTES: The following corrections to the May 3, 2017 draft minutes were suggested: the meeting date should be corrected to read May 3, 2017 instead of May 4, 2017; page 2, 5th paragraph – revise ‘that is owned by the applicant’ to read ‘to which the applicant has an ownership interest’; page 4, first paragraph (#3) – revise ‘an exclusive use’ to read ‘a use’. On motion by DeKruyter, seconded by Carpenter, the minutes of **May 3, 2017** were unanimously approved as corrected.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: No public comment on non-agenda items was offered.

NEW BUSINESS:

- 1) **Application for Appeal of Zoning Administrator Decision**
Brett & Jeanne Comar
4866 East Gull Lake Drive
Property Tax I.D. #3904-06-101-040

Chairperson Carpenter stated that the next matter to come before the Board was the appeal by Brett and Jeanne Comar from a June 23, 2017 opinion of the Ross Township

Zoning Administrator that Section 22.8 A., Zoning Ordinance does not allow platted lot 7 to be a separate buildable lot from the 'zoning lot' consisting of platted lots 5, 6 & 7. The subject site is located at 4866 East Gull Lake Drive and is within the R-1 Low Density Residential District.

Gale referenced his letter to the applicant dated June 23, 2017 wherein he explained the basis for his interpretation of the applicable Zoning Ordinance provisions as follows:

- : Lot 7 is 100 ft in width; the R-1 District has a 125 lot width requirement.
- : Lot 7 was joined by common ownership in 1969 with Lots 5 and 6.
- : Lots 5, 6 and 7 are currently owned by the applicant.
- : The existing house located on Lots 5 and 6 was constructed in 1948; a small 'beach house' exists on Lot 7.
- : Pursuant to Section 16.3 C., Lots 5, 6 and 7 constitute a single conforming and buildable 'zoning lot'.
- : To split Lot 7 from the conforming 'zoning lot' would result in the creation of nonconforming lot.
- : Section 22.8 – Building Upon Nonconforming Lots does not apply to Lot 7 because it does not stand as a lawful nonconforming lot but rather is part of a conforming 'zoning lot'.

Brett Comar and Nelson Karre, attorney, were present on behalf of the application. Karre referenced a letter sent to the Zoning Administrator by the applicant dated May 10, 2017 wherein an interpretation of the Zoning Ordinance on the matter was requested. He confirmed that the June 23, 2017 letter referenced by Gale was provided in response to the request, and noted that this ZBA application constitutes an appeal of that interpretation.

Karre stated that he believes the Zoning Ordinance is unclear on the following points:

- The 'beachhouse' located on Lot 7 referenced by Gale is a small storage shed and can easily be removed.
- Lot 7 is a single 'unimproved lot' and so Section 22.8 should recognize it as a lawful nonconforming lot.
- The Zoning Ordinance recognizes Lot 7 as a separate lot and should serve as a basis for granting approval to split off and sell Lot 7.

Gale referenced Section 16.3 C. and stated that Lots 5, 6 and 7 are contiguous and in single ownership and are therefore clearly a 'zoning lot' under the Zoning Ordinance. He stated that the 'zoning lot' was also developed as a single site, noting the location of the existing house on Lots 5 and 6 near a side property line and the location of the shed on Lot 7 as a building 'accessory' to the principal dwelling.

In response to Board questions, the applicant confirmed that the referenced accessory building (shed) and a driveway have been established on Lot 7. Karre stated that both

the shed and the driveway can easily be removed if their presence has the effect of rendering Lot 7 ‘developed’.

Doug Smith, (neighbor to the south) requested clarification of the definition of ‘nonconforming lot’.

Karre questioned if the Township Board would be able to approve the proposed split subject to ZBA interpretation that Lot 7 is a lawful nonconforming lot.

Township Attorney Thall responded that the Township Board would not be authorized to approve a lot split that does not comply with the provisions of the Ordinance.

Steve Campbell asked if tax bills for property assist in establishing a ‘zoning lot’. Attorney Thall responded in the negative.

Comar inquired as to when contiguous properties become a single ‘zoning lot’.

Attorney Thall and Harvey referenced the January, 2017 decision on the applicant’s original interpretation and the subsequent text amendment recommended for approval by the Planning Commission to clarify the matter. Section 16.3 C. was also reviewed for clarity.

Karre questioned if the recent amendment to the Zoning Ordinance to clarify ‘zoning lot’ occurred after the Comars filed their interpretation request with the Zoning Board of Appeals. Attorney Thall indicated that the proposed amendment was introduced for adoption in May, 2017, prior to the applicant’s request for appeal. He added that the Planning Commission’s action was recognized as codifying the ZBA’s interpretation, as well as past application of the standard in the Township.

No further public comment was offered on the matter. The public comment portion of the public hearing was closed.

Following review of Sections 16.3 C. and 22.8, Zoning Ordinance, as referenced by the applicant and the Township Zoning Administrator, Lauderdale moved to agree with and accept the interpretation of Gale as represented in the response letter from Gale dated June 23, 2017. DeKruyter seconded the motion. The motion carried unanimously.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 6:18 p.m.

Respectfully Submitted,
Rebecca Harvey, AICP, PCP
Township Planning Consultant