

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
February 23, 2023**

The Ross Township Zoning Board of Appeals held a special meeting on **February 23, 2023, at 5:30 p.m.** at the Ross Township Hall. Chairperson Carpenter called the meeting to order and noted those present.

Present: Dave Carpenter, Chairperson
 Jim DeKruyter
 Frank Guarisco, Alternate

Absent: None

Also present: Bert Gale, AGS – Township Zoning Administrator
 Nick Keck, AGS – Township Zoning Administrator
 Rebecca Harvey – Township Planning Consultant
 Rob Thall – Township Attorney

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

APPROVAL OF MINUTES. On motion by Guarisco, seconded by Chairperson Carpenter, the minutes of **January 4, 2023** were unanimously approved as presented.

NEW BUSINESS:

- 1) **Application for Variance**
Aaron and Natalie Wilson
6798 Spur Line Street
Property Tax I.D. #3904-29-122-015

Chairperson Carpenter stated that the next matter to come before the Board was the request by Aaron and Natalie Wilson for variance approval from the minimum dwelling standards established by Section 16.10. The subject site is located at 6798 Spur Line Street and is within the R-R Rural Residential District.

Chairperson Carpenter opened the public hearing.

Gale provided an overview of the request, stating that Section 16.10 requires that a dwelling have a core living area with a minimum dimension of 20 ft x 20 ft and a

minimum width across the front, side and rear elevations of at least 24 continuous feet of exterior wall.

He explained that the applicant proposes the construction of a new dwelling on the subject site that provides a core living area width of 16 ft 6 in (instead of 20 ft) and an exterior width of 18 ft 6 in (instead of 24 ft). Gale noted that the dwelling will, however, comply with the overall minimum floor area requirement of 1040 sq ft established by Article 15.

Aaron Wilson was present on behalf of the application. He stated that extensive effort has gone into the design of the house so that it could be located on the property in compliance with both Township requirements and the HOA regulations. Wilson explained that the HOA does not allow a pool to be located between the house and the abutting road and the Township does not allow a pool to be located between the house and the waterfront. He added that the grade and nature of the water frontage further limits use of that side of the property.

Wilson reviewed the elements of the house/site design, noting that the size of the house has been reduced and the configuration of the house modified to find a compliant pool location in a side yard. He opined that the layout of the house meets the intent of the dimensional requirements and is consistent with the character of the surrounding neighborhood. Wilson added that the property adjacent to the south is a general common element of the development and is not a building site . . noting that only the property adjacent to the north is a potential neighbor.

Guarisco inquired if the subject property was a double lot. Wilson confirmed that they are currently in the process of purchasing the adjacent lot reflected on the plot plan. Attorney Thall advised that an approval of the requested variance should be conditioned upon the purchase and combination of the two lots.

In response to questions, Gale confirmed that all required setbacks are proposed to be met. He noted that the addition of the second lot does allow for easy compliance with side setback requirements, but it does not alleviate the depth constraints of the lot or the limited pool locations allowed.

No public comment was offered and the public comment portion of the public hearing was then closed.

Board discussion ensued regarding Section 16.10 and how compliance with the 24 ft exterior wall width requirement is determined. Gale responded that the Ordinance requires a 24 ft continuous width ‘across the front, side and rear elevations’ . . and so he has interpreted that to mean that all sides of the dwelling must be at least 24 ft wide. It was noted that the Wilson dwelling exceeds 24 ft in width on all sides but one.

Discussion then continued regarding the intent of both the core living area and building width standards.

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

- #1 The proposed residential use of the property is permitted within the R-R District.
- #2 In determining if compliance would be unnecessarily burdensome, it was noted that adequate area exists on the property to locate a dwelling in compliance with applicable standards and that reasonable options for compliance exist, including shifting, reconfiguring or eliminating the pool.
- #3 In determining substantial justice, it was noted that the proposal is in compliance with location, setback, floor area and HOA requirements, suggesting consistency with the rights commonly enjoyed by other properties in the neighborhood/district. Reference was also made to the lack of objection by neighboring property owners.
- #4 It was recognized that the depth of the lots, the abutting waterfront, and the locational limitations imposed by the HOA and Zoning Ordinance do not represent unique physical limitations of the property preventing compliance.
- #5 The proposal is at the discretion of the applicant and represents a self-created hardship.
- #6 The intent of the core living area and exterior wall width requirements was referenced wherein it was noted that the total floor area and building height standards are met and the core living area and exterior wall widths comply with minimum standards on 3 of 4 sides of the proposed dwelling.

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

DeKruyter then moved to grant variance approval from the 20 ft core living area width requirement so as to allow a width of the 16 ft 6 in . . and from the 24 ft exterior width requirement so as to allow an 18 ft 6 in width on one side of the house . . based upon the findings of the Board pursuant to variance criteria 1#, #3, and #6 set forth in Section 23.8 A., Zoning Ordinance, and conditioned upon the following:

1. The purchase and combination of Units 15 and 16 of Crane's Pond Condo into a single building site, as represented by the applicant.
2. Construction on the property will be consistent with the 1.06.23 construction drawings that accompanied the variance application and were presented by the applicant.

Guarisco seconded the motion. The motion carried unanimously.

2) Application for Variance
Mark and Mary Manifould
195 Gull Lake Island
Property Tax I.D. #3904-18-280-140

Chairperson Carpenter stated that the next matter to come before the Board was the request by Mark and Mary Manifould for variance approval from the side setback and lot coverage requirements established by Article 15 and Section 22.9 for the construction of an addition to a single-family dwelling. The subject site is located at 195 Gull Lake Island and is within the R-1 Low Density Residential District.

Chairperson Carpenter opened the public hearing.

Keck provided an overview of the request, explaining that the applicant proposes the construction of a 20 ft x 30 ft addition on the rear side of the existing single-family dwelling with a proposed 5 ft side setback (10 ft required) and a 30.3% lot coverage (29.4% maximum allowed). He noted that the subject property is a nonconforming waterfront lot due to size and width.

Scott Cleveland, project contractor, was present on behalf of the application. He explained that the rear corner of the existing dwelling on the site is positioned 5 ft from the side property line and that it is desired that the proposed addition align with the existing dwelling. Cleveland further noted that the proposed addition will result in only a minor overage of the maximum lot coverage allowed (<1%) and that the impact will be minimal given the adjacent property is owned by the Gull Lake Island Association and is not slated for development.

In response to questions, Cleveland confirmed that the existing/proposed 5 ft setback is as measured from the eaves. He also explained that the elevation of the property is low which has resulted in the existing dwelling being building on 'stilts' or pylons . . and that the proposed addition will be constructed similarly. It was observed that the addition will not disturb the private sewer line currently serving the property.

Gale noted that the subject property has an average width of 76 ft which requires a 10 ft minimum side setback . . but that property with an average width of 70 ft or less would be allowed a side setback requirement of 5 ft . . as is proposed by the applicant.

DeKruyter questioned if the promenade that extends along the lot's water frontage is included in the lot coverage calculation. Gale responded that the promenade is not included in the total lot area for purposes of calculating lot coverage . . but Attorney Thall explained that same could be considered by the Board in their review of the variance criteria.

Chairperson Carpenter noted that a letter of support had been received and provided to Board members.

No further public comment was offered and the public comment portion of the public hearing was then closed.

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

- #1 The proposed residential use of the property is permitted within the R-1 District.
- #2 In determining if compliance would be unnecessarily burdensome, it was noted that reasonable options for compliance exist, including shifting, reducing or eliminating the proposed addition.
- #3 In determining substantial justice, it was recognized that the property is adjacent to a waterfront promenade and a vacant property and has been developed similarly to other properties on the island, suggesting consistency with the rights commonly enjoyed by other properties in the area. Reference was also made to the letter of support by a neighboring property owner.
- #4 It was recognized that the existing location of the dwelling is the only circumstance of the property driving the proposed location of the addition and does not constitute a unique physical limitation of the property preventing compliance.
- #5 The proposal is at the discretion of the applicant and represents a self-created hardship.
- #6 The purposes of the side setback and lot coverage requirements were referenced wherein it was noted that the existing side lot line separation will not be decreased; the adjacent property is vacant and held by the Gull Lake Island Association with no plans for development; and, required lot coverage is met by including the abutting promenade in the total lot area calculation . . noting that the abutting promenade provides undevelopable open space in connection with the property.

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

DeKruyter moved to grant variance approval from the 10 ft side setback requirement so as to allow the proposed 5 ft setback . . and from the 29.4% maximum lot coverage requirement so as to allow the proposed 30.3% lot coverage . . in conjunction with the proposed 20 ft x 30 ft addition to the existing dwelling, based upon the findings of the Board pursuant to variance criteria 1#, #3 and #6 set forth in Section 23.8 A., Zoning

Ordinance. Chairperson Carpenter seconded the motion. The motion carried unanimously.

**3) Application for Variance
Michael and Sara Brundage
1385 W. Gull Lake Drive
Property Tax I.D. #3904-18-402-280**

Chairperson Carpenter stated that the next matter to come before the Board was the request by Michael and Sara Brundage for variance approval from the side setback and maximum eave height requirements for accessory buildings established by Article 15 and Section 22.9 for the proposed construction of a 320 sq ft addition and a 627 sq ft second-story addition to the existing garage. The subject site is located at 1385 Gull Lake Drive and is within the R-1 Low Density Residential District.

Chairperson Carpenter opened the public hearing.

Keck provided an overview of the request, explaining that the proposed 320 sq ft addition on the west (rear) side of the existing garage will meet all applicable requirements. However, the proposed 627 sq ft second-story addition to the garage will be located 1.5 ft from the south (side) property line (5 ft setback required), as is the existing garage, and will have an eave height of 15 ft 9 in (maximum 10 ft allowed). He noted that the subject property is a nonconforming waterfront lot due to width.

Mike Brundage was present on behalf of the application. He explained that the lot is long and narrow and both the existing cottage and garage that are situated on the lot are nonconforming due to setback. In response to questions, Brundage confirmed that the existing shed on the south side of the garage is proposed to be removed . . . and that the second-story addition will comply with the overall building height standard of 18 ft, measured as the average height between eave and peak.

Chairperson Carpenter noted that two letters of support (from the two adjacent property owners) had been received and provided to Board members.

No further public comment was offered and the public comment portion of the public hearing was then closed.

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

- #1 The proposed residential use of the property is permitted within the R-1 District.
- #2 In determining if compliance would be unnecessarily burdensome, it was noted that reasonable options for compliance exist, including reducing or eliminating the proposed addition.

- #3 In determining substantial justice, it was recognized that properties in the general area are long and narrow; provided similar reduced building setbacks; and, include two-story accessory buildings, suggesting consistency with the rights commonly enjoyed by other properties in the area. Reference was also made to the support expressed by neighbors of the property.
- #4 It was recognized that the existing location of the garage is the only circumstance of the property driving the proposed location of the addition and does not constitute a unique physical limitation of the property preventing compliance.
- #5 The proposal is at the discretion of the applicant and represents a self-created hardship.
- #6 The purposes of the side setback and eave height requirements were referenced and the following was noted: the proposed second-story addition will be provided with a firewall on its west side consistent with public safety objectives; the proposed addition will not decrease the existing side lot line separation; the overall building height standard will be met; and, the eave/downspout proposal will support storm water runoff requirements;

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

DeKruyter moved to grant variance approval from the 5 ft side setback requirement so as to allow the proposed 1.5 ft setback . . . and from the 10 ft maximum eave height requirement so as to allow the proposed 15 ft 9 in eave height . . . in conjunction with the proposed 627 sq ft second-story addition to the existing garage, based upon the findings of the Board pursuant to variance criteria 1#, #3 and #6 set forth in Section 23.8 A., Zoning Ordinance, and conditioned upon the following:

1. Storm water runoff shall be retained on-site.
2. Use of the accessory building addition is limited to uses incidental and accessory to the residential use of the site.

Gaurisco seconded the motion. The motion carried unanimously.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Mike Brundage stated that he learned a lot attending the Board meeting and thanked the Board members for their work and contribution of time.

No further public comment on non-agenda items was offered.

OTHER BUSINESS:

Chairperson Carpenter indicated there was no Other Business scheduled for Board consideration.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 7:32 p.m.

Respectfully Submitted,

Rebecca Harvey, AICP, PCP
Township Planning Consultant