

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
April 5, 2023**

The Ross Township Zoning Board of Appeals held its regular meeting on **April 5, 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
Michael Bekes
Jim DeKruyter

Absent: None

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

APPROVAL OF AGENDA: DeKruyter moved to approve the agenda as presented. Bekes seconded the motion. The motion carried unanimously.

APPROVAL OF MINUTES: DeKruyter moved to approve the minutes of **February 23, 2023** as presented. Chairperson Carpenter seconded the motion. The motion carried 2-0, with Bekes abstaining.

NEW BUSINESS:

- 1) **Application for Variance**
Daryl Kooiker, Contractor
6 LaBelle Terrace
Property Tax I.D. #3904-18-476-071

Chairperson Carpenter stated that the next matter to come before the Board was the request by Daryl Kooiker for variance approval from the 50 ft waterfront setback requirement established by Article 15 and Section 22.9 so as to allow the reconstruction of a deck with a 30 ft waterfront setback. The subject site is located at 6 LaBelle Terrace and is within the R-1 Low Density Residential District.

Chairperson Carpenter opened the public hearing.

Gale provided an overview of the request, stating that the deck existing on the site was in poor condition and recently removed. He noted that the previous deck was provided a 30 ft waterfront setback and encroached into the required side setback. Gale stated that the applicant proposes the construction of a new, slightly smaller deck, to be similarly located.

In response to Board questions, Gale explained that Article 15 (Section 17.3) requires a 50 ft waterfront setback or ‘the average setback of the nearest existing principal buildings on each side of the lot’, whichever is greater. Given the average waterfront setback of the dwellings on the adjacent lots is 29.5 ft, a 50 ft waterfront setback is required. He further noted that the subject site is a nonconforming lot and that Section 22.9 allows for 5 ft side setbacks. Gale confirmed that the new deck is proposed to meet the 5 ft side setback requirement.

Daryl Kooiker, project contractor, was present on behalf of the application. He reiterated that the proposed deck will be slightly smaller and located with the same waterfront setback as the previous deck, as well as now meet side setback requirements. He confirmed that the deck will still extend 10 ft from the house, as did the previous deck. Kooiker advised that the location of the existing house prevents the establishment of a deck on the property in compliance with the waterfront setback requirement.

DeKruyter expressed concern that the previous deck has already been removed, preventing confirmation of its dimensions and location.

No 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 recognized that options to locate a deck on the site in compliance with applicable setback requirements are limited, but that not having a deck does not prevent reasonable use of the property.
- #3 In determining substantial justice, it was noted that the proposal is in compliance with side setback and lot coverage requirements, and is proposed to have a waterfront setback similar to the decks on adjacent/surrounding properties, suggesting consistency with the rights commonly enjoyed by other properties in the neighborhood/district. It was further noted that the proposal represents a replacement of a previous deck and so will not constitute a change in conditions, except for the removal of nonconforming side setbacks. Reference was also made to the lack of objection by neighboring property owners.

- #4 In consideration of unique physical circumstances, it was recognized that the size of the lot is similar to many properties in the general area and is not ‘unique’ to the site.
- #5 The proposal is at the discretion of the applicant and represents a self-created hardship.
- #6 The purpose of the waterfront setback requirement was referenced wherein the following was noted: waterfront decks are common to the surrounding area; the proposed deck is slightly smaller in size than the previous deck and will be located similarly to the previous deck; the proposed deck will comply with side setback requirements, removing a nonconforming element of the previous deck; the proposed deck will be provided a waterfront setback similar the decks on the adjacent lots; and, the proposed deck will represent a safety improvement on the site.

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 50 ft waterfront setback requirement so as to allow the proposed deck reconstruction with a 30 ft waterfront setback, based upon the findings of the Board pursuant to variance criteria 1#, #3 and #6 set forth in Section 23.8 A., Zoning Ordinance. Bekes seconded the motion. The motion carried unanimously.

PUBLIC COMMENT ON NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

BOARD COMMENT

Board members welcomed Mike Bekes as the new Township Board liaison to the Zoning Board of Appeals.

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 7:16 p.m.

Respectfully Submitted,

Rebecca Harvey, AICP, PCP
Township Planning Consultant