

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

The Ross Township Zoning Board of Appeals held its regular meeting on July 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
Jim DeKruyter
Michael Bekes

Absent:

Also present: Bert Gale, AGS – Township Zoning Administrator
Tyler Thompson, AGS – Township Zoning Administrator
Seth Koches – Township Attorney
Josh Thall – Township Attorney

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

APPROVAL OF MINUTES: On motion by Chairperson Carpenter, seconded by DeKruyter, the minutes of the June 7, 2023, ZBA Meeting were unanimously approved as presented.

NEW BUSINESS – Postponed from June 7, 2023:

- 1) **Application for Variance**
Scott Sagehorn
2104 Midlake Dr.
Hickory Corners, MI 49060
Property Tax I.D. #04-08-374-210

Chairperson Carpenter stated the next matter to come before the Board was the request by Scott Sagehorn for variance approval of the minimum front yard setback, minimum side yard setback and lot coverage as established by Article 15, Section 22.9 and Section 17.3. The subject site is located at 2104 Midlake Dr., Hickory Corners, MI 49060 and is within the R-1-Low Density Residential District.

Bert Gale provided an overview of the request first reminding the Committee this is a carryover from the June 7th ZBA meeting due to a medical emergency that prevented the applicant from attending said meeting. Gale then stated the property is a non-conforming waterfront lot on Gull Lake and the proposed project is to build a stairway with a small deck to allow ingress/egress at an existing sliding glass door wall and to rebuild an older, somewhat unsafe existing deck with an expansion of 150 square feet toward the lake with steps. The proposed is a request for variance approval to Article 15 for a 48-foot front yard setback, where 50-foot minimum is required, for variance approval of lot coverage of 54.1% where 37.4% is required and for variance approval for a four foot side yard setback on the southeast side where five feet is required. These calculations were made in accordance with Articles 22.9 and 17.3.

In response to the Board's questions, Gale addressed the size of the expansion of the existing deck and agreed the expansion is 63 square feet, not 150 square feet. He stated that change does not impact the calculations of the 48-foot front yard setback nor the lot coverage calculation of 54.1%. Gale also addressed questions on side yard setback, changing the actual variance approval request to three feet versus four feet when it was determined the existing home is two feet off the property line and the structure of the ingress/egress platform would be one foot from the corner of the home.

Chairperson Carpenter opened the Public Hearing at 5:32 pm.

Scott Sagehorn was present to represent the request. Sagehorn agreed with the changes resulting from the Board's questions and confirmed understanding the promenade would remain unimpacted with no encroachment and the replacement deck would be built with only handrails and guards with no structural elements that would result in additional living space for the home. Specifically, the deck replacement would not have walls or a roof or utilities.

No additional oral public comment was offered. However, written correspondence to the ZBA members is summarized as:

Written correspondence by Daniel Wallace, Executive Director of the Gull Lake Ministries shared he supports the project if the Midland Park Promenade, owned by Gull Lake Ministries for the benefit of all Midland Park homeowners is respected and not encroached upon.

Written correspondence by Mary Wilkins shared she supports the project as long as stipulations are put in writing that no additional construction on the deck, specifically walls or a roof or any construction that would block some of the lake view for the neighbors on either side are written as a part of any approval.

DeKruyter motioned to close the Public Hearing, supported by Bekes. The vote was unanimous support and 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:

The proposed residential use of the property is permitted within the R-1 District.

In determining if compliance would be unnecessarily burdensome, it was recognized that options to locate the decks on the site in compliance with applicable setback requirements are limited, but not having these decks does not prevent reasonable use of the property.

In determining substantial justice, it was noted that the proposal is in compliance with one side yard setback requirement and is proposed to have a waterfront setback similar to the decks on the adjacent/surrounding properties, suggesting consistency with the rights commonly enjoyed by other properties in the neighborhood/district. It was further noted there would be little if any viewshed impacts to existing neighbors as the two-foot encroachment to the 50-foot setback criteria would be steps off the rebuilt deck and the new ingress/egress deck would extend six feet out from the home within the existing footprint of the home. Specifically, this deck would be at least one foot from the corner of the home on the southeast corner.

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.

The proposal was determined to be at the discretion of the applicant and represents a self-created hardship.

The purpose of the waterfront setback requirement was referenced wherein waterfront decks are common to the surrounding area, the proposed deck is slightly larger than the existing deck and the proposed deck will be provided a waterfront setback similar to the neighboring decks. The viewshed impact is minimal as the two-foot encroachment into the 50-foot minimum would be the stairs and standard handrails and guards are expected. Neighbor support (two written responses) for the project was evident with certain conditions in place.

Based on the application documents presented, representations made by applicant Sagehorn and committee discussion, Bekes moved to grant variance approval from the 50 ft waterfront setback requirement so as to allow the proposed decks with a 48 foot front yard setback, grant variance from the 37.4% lot coverage so as to allow the proposed decks with 54.1% lot coverage and grant variance approval from the five foot side yard setback on the southeast side so as to allow the proposed deck with a three foot side yard setback with the following conditions:

- 1) The application is granted with the full understanding that the Gull Lake Ministries promenade and rights to all regarding promenade use remains fully in place with no encumbrment or encroachment, and
- 2) The deck(s) are built to be decks only, with no construction to make either deck livable building space with the addition of walls, roof or utilities.

DeKruyter seconded the motion. The motion carried unanimously.

PUBLIC COMMENT ON NON-AGENDA ITEMS:

No public comment on non-agenda items was offered.

BOARD MEMBER TIME:

No Board comments were made.

ADJOURNMENT:

Bekes motioned for adjournment, Chairperson Carpenter seconded, and the meeting adjourned with unanimous support at 6:12 PM.

Respectfully submitted,

Michael Bekes
Ross Township Trustee
Board Liaison to the Planning Commission
ZBA Member representing the Planning Commission