

ZONING BOARD OF APPEALS
ROSS TOWNSHIP
Draft MEETING MINUTES
August 7, 2024

The Ross Township Zoning Board of Appeals held its regular meeting on August 7, 2024 at the Ross Township Hall. Chairperson DeKruyter called the meeting to order at 5:30 PM.

Present: Jim DeKruyter, Chairperson
Frank Guarisco ZBA Member
Michael Bekes ZBA Member
Cheryl Duffy-Geiger (Alternate ZBA Member)
Bonnie Sawusch (Alternate ZBA Member)

Absent: None

Also present: Bert Gale, AGS — Township Zoning Administrator
Nick Keck, AGS — Township Zoning Administrator
Josh Thall — Township Attorney (attending due to a schedule conflict with regular Township Attorney Robert Thall)

Chairperson DeKruyter discussed the idea of a tour of the Gull Lake shoreline from the water side by boat for ZBA members, AGS and Attorney Robert Thall to observe the diversity of properties and behold properties the ZBA recently approved for ordinance variances. Having the tour on the agenda and including interested citizens on the tour would satisfy the Open Meeting rules per Attorney Thall. The crux of the tour is the conversation had by ZBA members could turn into ideas for ordinance changes that Bekes could take to the Ross Township board for consideration. The board could take action on such ideas and give direction to the Ross Township Planning Commission to review the ordinance with an eye toward achievable improvements. The ZBA agreed to have the boat tour on the agenda at the September 4th ZBA meeting.

APPROVAL OF AGENDA

Bekes moved to approve the agenda as presented and DeKruyter supported. The motion carried unanimously.

APPROVAL OF MINUTES

Guarisco moved to approve the minutes of July 3, 2024 as presented and Bekes supported. The motion carried unanimously.

OLD BUSINESS

Chairperson DeKruyter stated that no old business is scheduled for consideration.

NEW BUSINESS

1) Application for Variance

Christian and Sarah Striffler

8095 Fernwood Street

Property Tax I.D. #3904-15-470-050

Chairperson DeKruyter stated that the next matter to come before the committee is the request by Christian and Sarah Striffler for variance approval from the front (waterfront) setback requirement to allow for the construction of an addition to an existing singlefamily dwelling. The subject site is located at 8095 Fernwood Street and is within the RR Rural Residential District.

Chairperson DeKruyter opened the public hearing.

Christian Striffler was present on behalf of the application. He explained that the existing house, constructed prior to the adjacent houses, provided a 185 ft waterfront setback. He noted that the proposed addition would extend only 10 ft closer to the waterfront than the existing house ergo the request for a variance to 175 feet front yard set back per the application. Striffler added that the lot is large, heavily wooded and the proposed addition will not be visible from the abutting road or the adjacent properties.

Gale stated the applicant provided the front yard setback number at 175 feet as AGS did not assess the measurement. He supported Striffler's point the property is large and densely wooded. Gale referred to viewshed concerns addressed in Ordinance 17.3 and opined site line protection is not needed in this case due to neighbors being distant with no view to the back of the existing home.

In response to board questions, Striffler noted that he is sure of the accuracy of the 175 foot front yard set back variance request with this application as the set back request from an earlier application to the ZBA was erroneously submitted at 260 feet, preventing the project from starting.

Chairperson DeKruyter noted that no written correspondence on the matter has been received.

No further public comment was offered, and the public comment portion of the public hearing was closed. However, it was noted when the applicant was in front of the ZBA at the July 3rd meeting with the same project but with the erroneous set back request, a neighbor was present and spoke in favor of the addition and asked for variance approval.

The Board then proceeded with consideration of the variance request from the 303.93 foot waterfront setback requirement. In review of the variance criteria set forth in Section 23.8 A., the following findings were noted.

- #1 That the variance will not permit the establishment within a zoning district of any use which is not allowed as a permitted or special land use within the district.

The ZBA agreed that the proposed residential use of the property is permitted within the R-R District.

- #2 That compliance with the strict letter of the Zoning Ordinance would unreasonably prevent the owner of occupant of the property from using the property for a permitted purpose or would render conformity with the Zoning Ordinance unnecessarily burdensome.

In determining if compliance would be unnecessarily burdensome, it was noted that the subject site is currently occupied by a single-family dwelling/attached garage and a denial of the requested setback variance will not prevent permitted use of the property. It was further noted that redesign options appear to be available that allow for the proposed addition with a conforming waterfront setback, including reconfiguration and/or relocation.

- #3 That a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the surrounding area or, in the alternative, that a lesser relaxation than the applied for would give substantial relief to the owner or occupant of the property involved and be more consistent with justice to other property owners.

In determining substantial justice, a review of the waterfront setbacks on surrounding properties was conducted. It was noted that the proposed setbacks are similar or more in compliance than the arrangements occurring on most surrounding lots suggesting an overall consistency with the rights enjoyed by other properties in the neighborhood.

#4 That the hardship asserted by the applicant by way of justification for a variance is due to unique circumstances of the property.

In consideration of unique physical circumstances, it was recognized that the plot plan does not reveal the presence of any unique physical limitations on the site preventing compliance that are not generally present on other properties in the area/district.

#5 That the hardship asserted by way of justification for the variance is not selfcreated.

The proposal is at the discretion of the applicant and represents a self-created hardship. It was recognized, however, that the existing house was only caused to have a nonconforming waterfront setback because of the subsequent construction of the adjacent houses.

#6 That, in granting a variance, the Zoning Board of Appeals is ensuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.

The purpose of the waterfront setback requirement was referenced and the following noted:

- The proposed 175 foot waterfront setback is greater than the required minimum waterfront setback of 50 ft, suggesting waterfront/building separation and shoreline preservation objectives will be met.

- The proposed 175 foot waterfront setback is less than the 360 ft and 290 ft waterfront setbacks on the two adjacent properties, however, given the change in grade on the waterfront side of the property and the existing tree coverage on the site, horizontal sight line objectives will not be impacted.

- Given the 175 ft waterfront setback of the deck and the 185 foot waterfront setback of the house, the proposed 175 foot setback will still allow for 'consistency of building lines'.

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

Bekes then moved to grant Variance Approval from the 303.93 foot waterfront setback requirement to allow for the construction of a 900 sq ft addition on the north side of the house with a waterfront setback of 175 feet based upon the stated findings of the Board on variance criteria #1, #3, and #6 set forth in Section 23.8, Zoning Ordinance as an approval August 7, 2024 ZBA Meeting

would meet the spirit of said ordinance. The project would be subject to compliance with all other applicable dimensional requirements. Guarisco seconded the motion. The motion carried unanimously.

PUBLIC COMMENT

No public comment was offered.

BOARD MEMBER TIME

Chairperson DeKruyter motioned to resolve the start time of the September ZBA meeting to 5:00 PM versus the normal 5:30 PM start time to accommodate the expected boat tour of Gull Lake and Guarisco supported. Thall shared a roll call vote is needed with this motion and if the motion passes a notice of the meeting start time would need to be posted on both the front door of the office and to the website within three days.

Roll call vote:

Guarisco — Aye Chair

DeKruyter — Aye

Bekes — Aye

Bekes agreed to work with the office to ensure the notice on this one-time meeting start time change is posted timely. Chair DeKruyter asked Attorney Josh Thall to work with Attorney Robert Thall to compose the notice and submit it the following day, which was agreed to by Josh.

Bekes shared the Ross Township's board direction to the Planning Commission to put the highest priority on creating a workable ordinance for solar farms and battery storage due to Legislation PA 233 of 2023 going into effect on November 29, 2024.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 6:23 PM.

Respectfully Submitted,

Michael Bekes

August 7, 2024 ZBA Meeting

Acting Recording Secretary

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