

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
February 4, 2024**

The Ross Township Zoning Board of Appeals held its regular meeting on **February 4, 2024, at 5:30 p.m.** at the Ross Township Hall. Chairperson DeKruyter called the meeting to order and noted those present.

Present: Jim DeKruyter, Chairperson
 Michael Bekes
 Bonnie Sawusch, Alternate

Absent: Frank Guarisco

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

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

APPROVAL OF MINUTES: Bekes moved to approve the minutes of **January 3, 2024** as presented. Sawusch seconded the motion. The motion carried unanimously.

OLD BUSINESS

Chairperson DeKruyter stated that no Old Business is scheduled for consideration.

NEW BUSINESS

- 1) **Application for Variance**
Justin Ridderman
180 East Gull Lake Drive
Property Tax I.D. #3904-20-130-220

Chairperson DeKruyter stated that the next matter to come before the Board was the request by Justin Ridderman for variance approval from the 50 ft front (waterfront) setback requirement and the 34.8% maximum lot coverage standard so as to allow for the reconstruction and expansion of an existing deck. The subject site is located at 180 East Gull Lake Drive and is within the R-1 Low Density Residential District.

Chairperson DeKruyter opened the public hearing.

Gale provided an overview of the request, noting the following:

- The subject site exists as a lawful nonconforming lot due to size/frontage/lot width.
- Applicant proposes the reconstruction of the existing elevated deck, including a 3.5 ft x 21 ft (73.5 sq ft) expansion of the deck.
- Pursuant to Section 17.3, a 50 ft waterfront setback is required; a 19.4 ft waterfront setback is proposed.
- Pursuant to Section 22.9, a maximum lot coverage of 34.8% is allowed; a 48.8% lot coverage is proposed.

Justin and Caroline Ridderman were present on behalf of the application. Ms. Ridderman confirmed that the existing wooden deck is proposed to be completely removed and replaced with composite decking. She noted that the removal of the exterior stairs on the north side of the deck is proposed and will serve to bring the deck in compliance with the side setback requirement.

Ms. Ridderman confirmed that the dimension of the proposed deck expansion is 3.5 ft x 21 ft, correcting the 4 ft x 21 ft notation on some of the application documents. She added that the number of support posts will be reduced from 9 to 5 or 6 and that the deck will match the exterior trim of the house.

Mr. Ridderman noted that the subject site has a higher elevation than the neighboring properties and so will not serve to block horizontal sight lines. He referenced the letter of support submitted by the adjacent property owner (Miller).

In response to Board questions, the Ridderman's confirmed that the proposed deck will be a second-story over the walk-out and will not have exterior ingress/egress. Gale further confirmed that the lot coverage calculations included the removal of the stairs.

Chairperson DeKruyter noted the receipt of a letter of support from the adjacent property owner. No further public comment was offered and the public comment portion of the public hearing was then closed.

Harvey provided a detailed overview of the staff report on the requested variance.

In 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.

However, the proposed reconstruction/expansion of the deck will result in an expansion of a nonconforming building . and an increase in both the existing

nonconforming waterfront setback and existing nonconforming lot coverage. Per Section 22.3 b., a special land use permit will be required for the proposed deck.

- #2 In determining if compliance would be unnecessarily burdensome, it was recognized that there are no reasonable options available for compliance with the waterfront setback requirement or lot coverage standard given the nonconforming situation of the existing house/lot. However, it was noted that the subject site is currently occupied by a dwelling with a waterfront deck and that a denial of the requested setback and lot coverage variances for the proposed deck reconstruction/expansion will not prevent permitted use of the property.
- #3 In determining substantial justice, a review of the waterfront setbacks and lot coverages on surrounding waterfront properties was conducted. It was noted that the proposed 19.4 ft waterfront setback is not significantly less than the setbacks occurring on said properties, and the proposed 48.4% lot coverage is similar to the lot coverages found on neighboring lots . . suggesting a general consistency with the rights commonly enjoyed by other properties in the neighborhood/district. Reference was also made to the support expressed by the adjacent property owner.
- #4 In consideration of unique physical circumstances, it was recognized that the Sketch Plan does not reveal the presence of any unique physical limitations on the site preventing compliance. It was also noted that the subject .09-acre site is a nonconforming lot . . and is allowed the application of setback reductions and a lot coverage increase . . designed to consider the circumstances of the property.
- #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 and the following noted:

The proposed 19.4 ft waterfront setback is less than the required minimum waterfront setback of 50 ft, suggesting waterfront/building separation and shoreline preservation objectives will not be met;

However, the proposed 19.4 ft setback is only slightly less than the 22 ft and 25 ft waterfront setbacks existing on the adjacent lots, suggesting horizontal sight lines and building alignment objectives will largely be met, especially considering the proposed deck will be raised and the elevation of the property relative to adjacent lots. It was also noted that the owner of the adjacent property noted support of the proposal.

The purpose of the lot coverage standard was then referenced and it was noted that the proposed 48.8% lot coverage is greater than the 34.5% allowed, suggesting that general lot coverage standards may not be met. However, the

proposed deck will only serve to increase the existing lot coverage from 47% to 48.8%, which suggests that building massing, open space and viewshed conditions, and stormwater management conditions will not be modified.

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 moved to grant variance approval from the 50 ft waterfront setback requirement and 34.8% maximum lot coverage standard so as to allow the proposed deck reconstruction/expansion with a 19.4 ft waterfront setback and a resulting lot coverage of 48.8%, based upon the stated findings of the Board on variance criteria #1, #2, #3 and #6 set forth in Section 23.8 A., Zoning Ordinance. Sawusch seconded the motion. The motion carried unanimously.

Chairperson DeKruyter reminded that a special land use permit will still be required for the proposed expansion of a nonconformity and will require application to the Planning Commission.

2) Application for Variance
Linda Markee
11962 Yorkshire Drive
Property Tax I.D. #3904-30-482-050

Chairperson DeKruyter stated that the next matter to come before the Board was the request by Linda Markee for variance approval from the 56.5 ft front (waterfront) setback requirement so as to allow for the reconstruction of an existing deck. The subject site is located at 11962 Yorkshire Drive and is within the R-1 Low Density Residential District.

Chairperson DeKruyter opened the public hearing.

Gale provided an overview of the request, noting the following:

- The subject site exists as a lawful conforming lot.
- Applicant proposes the reconstruction of an existing 11 ft x 16 ft (176 sq ft) deck (with stairs) that was removed for Gull Lake Sewer and Water to facilitate connection to public sewer.
- Pursuant to Section 17.3, a 56.5 ft waterfront setback is required; a 47 ft waterfront setback is proposed.
- The existing house is provided a 50 ft waterfront setback. The deck is proposed to align with the leading edge of the waterfront side of the house, with the stairs extending 3 ft beyond, for a proposed waterfront setback of 47 ft.

Laura Markee was present on behalf of the application. Markee stated that the existing deck was rotted and removed to complete the sewer connection. They propose to replace

the deck in the same location and with the same footprint (including the stairs) as previously existed.

In response to Board questions, Markee explained that had the deck not had to be removed to facilitate the sewer connection in 2023 they would have only replaced the deck flooring, which would not have required a setback variance.

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

Harvey provided a detailed overview of the staff report on the requested variance.

In 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.

However, the proposed reconstruction of the deck will result in an expansion of a nonconforming building and an increase in the existing nonconforming waterfront setback. Per Section 22.3 b., a special land use permit will be required for the proposed deck.
- #2 In determining if compliance would be unnecessarily burdensome, it was felt that there are no reasonable options available for compliance with the waterfront setback requirement given the configuration and placement of the existing house. However, it was noted that the subject site is currently occupied by a dwelling with an elevated waterfront deck and that a denial of the requested setback for the proposed ground-level deck reconstruction will not prevent permitted use of the property.
- #3 In determining substantial justice, a review of the waterfront setbacks on surrounding waterfront properties was conducted. It was noted that the proposed 47 ft waterfront setback is less than the setbacks occurring on said properties, . . . suggesting a lack of general consistency with the rights commonly enjoyed by other properties in the neighborhood/district.
- #4 In consideration of unique physical circumstances, it was recognized that the Sketch Plan does not reveal the presence of any unique physical limitations on the site preventing compliance. It was also noted that the subject site is a conforming lot and exceeds the minimum lot size for the district.
- #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 and the following noted:

The proposed 47 ft waterfront setback is not significantly less than the required minimum waterfront setback of 50 ft, suggesting waterfront/building separation and shoreline preservation objectives will largely be met;

Further, the proposed 47 ft setback will not represent a change in conditions from the previous deck/stairs arrangement and location, suggesting horizontal sight lines and building alignment will not be modified nor impacted.

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 moved to grant variance approval from the 56.5 ft waterfront setback requirement so as to allow the proposed deck/stairs reconstruction with a 47 ft waterfront setback, based upon the stated findings of the Board on variance criteria #1, #2 and #6 set forth in Section 23.8 A., Zoning Ordinance. Chairperson DeKruyter seconded the motion. The motion carried unanimously.

Chairperson DeKruyter reminded that a special land use permit will still be required for the proposed expansion of a nonconformity and will require application to the Planning Commission.

3) Application for Variance
Dylan Steele
5 LaBelle Road
Property Tax I.D. #3904-18-476-061

Chairperson DeKruyter stated that the next matter to come before the Board was the request by Dylan Steele for variance approval from the 50 ft front (waterfront) setback requirement and the 37.3% maximum lot coverage standard so as to allow for the reconstruction of an existing deck. The subject site is located at 5 LaBelle Road and is within the R-1 Low Density Residential District.

Chairperson DeKruyter opened the public hearing.

Gale provided an overview of the request, noting the following:

- The subject site exists as a lawful nonconforming lot due to size/frontage/lot width.
- Applicant proposes the reconstruction of the existing 160 sq ft deck with the same footprint/configuration and in the same location.
- Pursuant to Section 17.3, a 50 ft waterfront setback is required; a 20 ft waterfront setback is proposed.
- Pursuant to Section 22.9, a maximum lot coverage of 37.3% is allowed; a 40% lot coverage is proposed.

Dylan Steele was present on behalf of the application. Steele reiterated that the proposed replacement deck is the same size, configuration and location as the previous deck, adding that the deck supports the porch roof. He confirmed that the deck has already been constructed, explaining that the project started with a simple redecking of the existing deck structure, when it was discovered that the structure needed to be replaced.

Gale confirmed that the issuance of the building permit is pending a grant of the requested variances.

Attorney Thall reminded that the Board will not take into consideration the fact that the deck has already been constructed in the application of the variance criteria.

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

In 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.

However, the proposed reconstruction of the deck will result in an expansion of a nonconforming building . and an increase in both the existing nonconforming waterfront setback and existing nonconforming lot coverage. Per Section 22.3 b., a special land use permit will be required for the proposed deck.

#2 In determining if compliance would be unnecessarily burdensome, it was recognized that there are no reasonable options available for compliance with the waterfront setback requirement or lot coverage standard given the nonconforming situation of the existing house/lot. However, it was noted that the subject site is currently occupied by a dwelling and that a denial of the requested setback and lot coverage variances for the proposed deck reconstruction will not prevent permitted use of the property.

#3 In determining substantial justice, a review of the waterfront setbacks and lot coverages on surrounding waterfront properties was conducted. It was noted that the proposed 20 ft waterfront setback and 40 % lot coverage are similar to that found on neighboring lots . . suggesting a general consistency with the rights commonly enjoyed by other properties in the neighborhood/district.

#4 In consideration of unique physical circumstances, it was recognized that the Sketch Plan does not reveal the presence of any unique physical limitations on the site preventing compliance. It was also noted that the subject site is a nonconforming lot . . and is allowed the application of setback reductions and a lot coverage increase . . designed to consider the circumstances of the property.

#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 and the following noted:

The proposed 20 ft waterfront setback is less than the required minimum waterfront setback of 50 ft, suggesting waterfront/building separation and shoreline preservation objectives will not be met;

However, the proposed 20 ft setback is similar to the waterfront setbacks existing on the adjacent lots, suggesting horizontal sight lines and building alignment objectives will be met, especially considering the proposed location and configuration of the deck

The purpose of the lot coverage standard was then referenced and it was noted that the proposed 40% lot coverage is only slightly greater than the 37.3% allowed, suggesting that general lot coverage objectives will be met. Further, the proposed 40% lot coverage will not represent a change in conditions from the previous deck, suggesting that building massing, open space and viewshed conditions, and stormwater management conditions will not be modified.

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 moved to grant variance approval from the 50 ft waterfront setback requirement and 37.3% maximum lot coverage standard so as to allow the proposed deck reconstruction with a 20 ft waterfront setback and a resulting lot coverage of 40%, based upon the stated findings of the Board on variance criteria #1, #2, #3 and #6 set forth in Section 23.8 A., Zoning Ordinance. Sawusch seconded the motion. The motion carried unanimously.

Chairperson DeKruyter reminded that a special land use permit will still be required for the proposed expansion of a nonconformity and will require application to the Planning Commission.

PUBLIC COMMENT ON NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

BOARD MEMBER COMMENT

Attorney Thall advised that The Bluffs has filed a lawsuit against the Township regarding the Township's position on the extension of the pedestrian pathway associated with the

multiple-family development across the portion of their property locate within the R-1 District.

Bekes advised that the February Planning Commission meeting will be devoted to discussion on the budget and work plan and will not require attendance by staff/consultants.

Chairperson DeKruyter raised the question of the ZBA's budget. It was determined acceptable that the 2023 budget framework and numbers be used in developing the 2024 budget. Chairperson DeKruyter indicated a desire that the budget allocate sufficient funds for training. It was noted that the budget can be amended if needed once all revenues/expenses are confirmed.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 7:20 p.m.

Respectfully Submitted,

Rebecca Harvey, AICP, PCP
Township Planning Consultant