

**ZONING BOARD OF APPEALS  
ROSS TOWNSHIP  
June 5, 2024**

The Ross Township Zoning Board of Appeals held its regular meeting on **June 5, 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  
Frank Guarisco

Absent: None

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

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

APPROVAL OF MINUTES: Bekes moved to approve the minutes of **April 5, 2024** as presented. Chairperson DeKruyter 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  
Ashley Mellema  
451 South Gull Lake Drive  
Property Tax I.D. #3904-17-354-230

Chairperson DeKruyter stated that the next matter to come before the Board was the request by Ashley Mellema for variance approval from the front (waterfront) and side setback requirements and the maximum lot coverage requirement so as to allow for the

construction of a new single-family dwelling. The subject site is located at 451 South 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 removal of the 'summer cottage' and the construction of a new single-family dwelling/attached garage/waterfront deck on the subject site.
- Pursuant to Section 17.3, a 50 ft waterfront setback is required. A 45 ft waterfront setback exists; a 35 ft waterfront setback is proposed. Variance approval from the 50 ft setback requirement is requested.
- Pursuant to Section 22.9 A., a 20 ft rear setback is required. A 19 ft rear setback exists; a 12.5 ft rear setback is proposed. Variance approval from the 20 ft setback requirement is requested.
- Pursuant to Section 22.9 B., 33.8% lot coverage is allowed. The existing lot coverage is unknown; 37.06% lot coverage is proposed. Variance approval from the 33.8% lot coverage standard is requested.

Jennifer O'Neil, American Village Builders (AVB), was present on behalf of the application. She confirmed the details of the proposal, highlighting that great effort was made to design the building/site in keeping with the character of the area. She noted the following:

- The side setback of the existing cottage is 3 ft and not in compliance with the 5 ft side setback requirement. The proposed dwelling will be provided a 5 ft side setback, thereby removing an existing nonconformity on the site.
- Both side setbacks are proposed to comply with setback requirements.
- The proposed location of the dwelling is in alignment with existing dwellings on adjacent lots.
- The proposed mass and scale of the dwelling are consistent with other dwellings in the surrounding area.
- The neighbors are in support of the proposal.
- The proposal/request is similar to other requests for properties in the area that have been considered and granted by the ZBA.

Jack Gesmundo, AVB, stated that building architecture is important to the Gull Lake waterfront, referencing the Gull Harbor Point and Allendale Park projects as examples of attention to building mass, scale and design.

He added that the lot coverage standard in the Ordinance essentially requires measurement to the eave line instead of the building foundation. Likely no variance would be required for the subject proposal if the lot coverage calculation did not include the building overhangs. He suggested that this measurement approach has resulted in

some houses on the waterfront being established without eaves as a way to comply, which is likely not the architecture the Township intends to encourage on the waterfront. He noted that it may be prudent for the Township to consider an amendment to this standard.

Gesmundo continued that the proposed size of the dwelling is modest and is in keeping with the size of other dwellings in the area, as well as the size of the property. He added that the proposed attached garage is only 22 ft x 22 ft in size, designed to provide for two enclosed parking spaces and leave adequate space for two parallel parking spaces in front of the garage and out of the road right-of-way.

Mark Scholten, neighboring property owner, stated he has no objection to the request.

Bonnie Sawusch, ZBA Alternate, noted that Gull Lake Drive is a very narrow road and that the proposed 12.5 ft setback is a concern. She also raised concerns regarding viewshed impacts given the proposed setbacks and lot coverage.

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 then closed.

General Board discussion ensued. Chairperson DeKruyter stated that Gull Lake Drive is in fact a narrow road with a lot of traffic. He expressed concern with the availability and safety of parking on the site given the proposed rear setback and lot coverage limitations. Gesmundo explained that the proposal includes use of a permeable surface for the two parallel parking spaces in the rear yard, negating any lot coverage impacts, and noted that the 12.5 ft building setback provides adequate width to provide the parking spaces in compliance with Ordinance dimensional requirements. He further confirmed that the existing well will be relocated.

Bekes noted his agreement that the existing 'summer cottage' is not livable and that replacement with a new dwelling is reasonable. He noted concerns with potential environmental impacts related to the removal of the existing oil tank and inquired as to the proposed post-construction topography on the site. O'Neil stated that there is currently a 7 ft grade change from the road to the lake and that no change to that grade is proposed. The proposed dwelling will be the same 'walk-out' design as the cottage to facilitate working with the existing grade.

Gale inquired as to the proposed location of any related mechanical units. Gesmundo stated that mechanical units will not be located in the side yards or any required setback area.

Harvey requested clarification of the proposed dwelling size and height. O'Neil responded that the dwelling has not yet been designed and so size and height cannot be

confirmed. There was general discussion about the difficulty in considering requests for variances when a building design/footprint cannot be presented in support of the arguments offered. O'Neill clarified that a 1.5 story dwelling is envisioned, as currently exists, and that the dwelling footprint represented on the site plan is a reasonable approximation of size/dimensions.

The Board determined to consider the three variance requests together. 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.

It was clarified that the proposed setbacks/lot coverage constitute a continuation of a 'nonconforming' arrangement, however, with the removal of the 'summer cottage', the proposed new construction will not result in an actual expansion of a nonconforming building

#2 In determining if compliance would be unnecessarily burdensome, it was noted that the subject site is currently occupied by an unlivable 'summer cottage'. The proposed single-family dwelling and attached garage are modest in size and a reasonable proposal for the property. It was further noted that the side setbacks will be brought into compliance with applicable requirements, removing an existing nonconformity, and that although the waterfront setback is proposed to be reduced, the actual building mass within the required setback area will remain unchanged. Regarding the rear setback, it was noted that redesign options are limited and that, given the modest size of the proposed building, a reduction in size would be inconsistent with other buildings in the area.

#3 In determining substantial justice, a review of the waterfront/rear setbacks and lot coverages on surrounding properties was conducted. It was noted that the proposed setbacks and lot coverage 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/district. It was further noted that there were no objections from neighboring property owners.

#4 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 The proposal is at the discretion of the applicant and represents a self-created hardship.

#6 The purpose of the setback and lot coverage requirements was referenced and the following noted:

- The proposed 35 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 35 ft setback is greater than the estimated 27 ft waterfront setback existing on the lot adjacent to the north (459 S Gull Lake Drive), and the curvature of the shoreline as it extends north suggests that horizontal sight lines and building alignment objectives are largely met.
- The proposed rear setback of 12.5 ft will not serve to reduce the available off-street parking area in that four on-site parking spaces are proposed to be established that do not negatively impact lot coverage nor extend into the road right-of-way. Further, the proposed orientation/configuration of the garage and driveway provide adequate building/roadway separation for safety and allow for ‘consistency of building lines.’
- The proposed 37.06% lot coverage is similar to or less than the existing lot coverage on adjacent/nearby properties suggesting that building mass, open space and viewshed conditions in the general area will not be impacted. Further, the proposal will not alter the existing grade or land cover conditions suggesting the proposed construction will not impact stormwater management and shoreline preservation conditions.

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 50 ft waterfront setback requirement to allow for the construction of a new dwelling with a waterfront setback of 35 ft.
- Variance Approval from the 20 ft rear (streetside) setback requirement to allow for the construction of a new dwelling with a 12.5 ft setback from South Gull Lake Drive.
- Variance Approval from the 33.8% maximum lot coverage requirement to allow for the construction of new dwelling with a 37.06% lot coverage.

based upon the stated findings of the Board on variance criteria #1, #2, #3, and #6 set forth in Section 23.8, Zoning Ordinance, and subject to the following conditions:

1. The proposed construction shall comply with the applicable building height standard.
2. No change shall be made to the site’s existing grade or proposed stormwater management plan.

Guarisco 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 member comments were offered.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 6:48 p.m.

Respectfully Submitted,

Rebecca Harvey, AICP, PCP  
Township Planning Consultant