

Final

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
June 7, 2023**

The Ross Township Zoning Board of Appeals held its regular meeting on June 7, 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
Nick Keck, AGS – Township Zoning Administrator
Tyler Thompson – Township Zoning Administrator
Rob Thall – Township Attorney

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

APPROVAL OF MINUTES: On motion by Jim DeKruyter, seconded by Chairperson Dave Carpenter, the minutes of April 5, 2023 were unanimously approved as presented.

NEW BUSINESS:

- 1) Application for Variance**
Jane E. Kuckel
16 LaBelle Terrace
Property Tax I.D. #04-18-480-060

Chairperson Carpenter stated that the next matter to come before the Board was the request by Jane E. Kuckel 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 16 LaBelle Terrace and is within the R-1-Low Density Residential District.

Chairperson Carpenter opened the public hearing.

Bert Gale provided an overview of the request, stating that the project is a deck in the front yard on a nonconforming lot where the ZBA needs to conder three variances, including lot coverage (ordinance at 36%, proposal at 36.8%), lake setback (ordinance at 50 feet, proposal at 36.3 feet) and side yard set back (ordinance at five feet, proposal at two feet nine inches on the west side).

In response to Board questions, Gale explained the angular property line to the home foundation was the reason for the side yard setback proposal and calculated the deck would need to be approximately 32 square feet smaller to meet the 36% maximum lot coverage per the ordinance. It was also determined the proposal would not encumber access to the front yard by either fire or other emergency personnel should an incident requiring such arise.

Heather Hilgart, daughter to Jane Kuckel was present to represent Jane Kuckel. She shared the deck would be built over the existing patio on sight at an estimate of 30 inches above ground level (not patio surface level) with railings that would not impede sightlines from neighbors. The design is to accommodate putting a table and chairs out and to make access from the home easier for her handicapped parent.

The public comment portion of the public hearing included written correspondence in advance of the meeting by Judy and Bot Sackett, residing at 13 LaBelle Terrace, Richland, Michigan who documented their support of approval of the variance request from Jane Kuckel with no conditions. Written correspondence by neighbors Kathleen and Jerry Wojtala, Carol and Martin Ranly & Kristen and Patrick Fillar all supporting an approval of the variance requests were presented by AGS to the ZBA members during the meeting. Charles Bininger, the neighbor next door on the west side of the Jane Kuckel property was present and stated the new deck would be further away from his property than the existing patio and he was in support of approval of the variance requests.

Jim DeKruyter moved to close the public comment portion of the meeting, seconded by Michael Bekes. The motion passed unanimously.

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 one side yard setback (east side property line) 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 that the proposal represents a new deck over the existing patio and lessor demands including patio size to reduce lot coverage to the 36% standard would be burdensome.
- #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 larger than the previous patio, the proposed deck will be provided a waterfront setback similar to the decks on the

west side of the home and other area homes, whereas the east side neighbor home does not have a deck at the present time. In the spirit of the ordinance, the height of the proposed deck and the railing construction (see through, potentially glass panels or wire type) both contribute to viewshed protection for the neighbors and fire/emergency personnel access to the front yard would not be encumbered with approval.

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

Michael Bekes moved to grant variance approval from the 50 ft waterfront setback requirement so as to allow the proposed deck with a 36 foot 3 inch setback, grant variance from the 36% lot coverage so as to allow the proposed deck with 36.8% lot coverage and variance from the five foot side yard setback on the west side so as to allow the proposed deck with a two foot nine inch side yard setback with two conditions. Condition one would be a deck height off the ground at a maximum of 33 inches and condition two is a railing construction that is see through in nature. Jim DeKruyter seconded the motion. The motion carried unanimously.

2) Application for Variance
KARA AND JOHN SCHODER
9460 N 43RD STREET
AUGUSTA, MI 49012
Property Tax I.D. #3904-10-330-015

Chairperson Carpenter stated that the next matter to come before the Board was the request by Kara and John Schoder for variance approval of the minimum eave height as established by Article 15. The subject site is located at 9460 N 43rd Street, Augusta Michigan and is within the Rural Residential District.

Chairperson Carpenter opened the public hearing.

Bert Gale provided an overview of the request, stating that Article 15 requires a maximum eave height of 14 feet and the proposed variance request is to allow eave height at 16 feet. The 16-foot eave height was requested due to the desire to park a Class A Motorhome inside the pole barn.

In response to Board questions, Gale was not sure why the ordinance of a 14-foot eave height maximum was set and there were limited options for parking the motorhome inside a pole barn without the 16-foot easement. The applicant could park the motorhome outside or change the design of the pole barn truss system to also include a door on a gable end as two options discussed. The roof height was under the maximum standard and all lot line setbacks were met. Regarding questions regarding why would this eave height variance request come to the ZBA, Attorney Thall stated request was for a variance for current rules and the ZBA should go through the standards in order to decide each application on a case by case basis. Attorney Thall stated the ZBA decision does not change the standard and if the standard is desired to be reviewed, the ZBA could ask the Planning Commission to take the ordinance under consideration for changes.

John Schoder (owner) was present to represent the application. He shared the family are campers and he would like the respective structure to both match the house and accommodate inside storage of the motorhome.

No public comment was offered and the public comment portion of the public hearing was then closed by motion from Jim DeKruyter, seconded by Michael Bekes and unanimously accepted.

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-R District.

#2 In determining if compliance would be unnecessarily burdensome, it was recognized that options to lower the eave height and still accommodate housing a Class A Motorhome are limited, creating unnecessary burden to the applicant.

#3 In determining substantial justice, it was noted that the proposal is in compliance of side yard setback, rear yard setbacks and total lot coverage. The side yard requirement of 20 feet minimum was met at 145 feet and 150 feet, the rear yard setback standard of 5 feet minimum was met at 140 feet and the lot coverage of 10% maximum was met at 1.8%. In addition, the maximum roof height of 25 feet will be met as the proposed structure would have a roof height of 19 feet four inches.

#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 In the spirit of the ordinances, the construction of the home and pole barn would be somewhat centered in the nine acre site and viewshed interference of neighbors would not be 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.

Jim DeKruyter moved to grant variance approval from the 14 foot eave height on the of the accessory building so as to allow the proposed 16 foot eave height. Michael Bekes seconded the motion. The motion carried unanimously.

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

Chairperson Carpenter stated that 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.

Before Chairperson Carpenter opened the public hearing, Bert Gale reported due to a family emergency, the applicants were not present at the meeting. After discussion, Michael Bekes motioned to table the

review of the application for variance for Scott Sagehorn at 2104 Midlake drive and postpone the review to the July 5th ZBA meeting. Jim DeKruyter seconded. The motion carried unanimously.

PUBLIC COMMENT ON NON-AGENDA ITEMS:

No public comment on non-agenda items was offered.

BOARD COMMENT:

The return of Rebecca Harvey starting with the July 5th ZBA Meeting was well received by the ZBA Board.

OTHER BUSINESS:

Chairperson Carpenter indicated there was no Other Business for Board consideration.

ADJOURNAMENT:

There being no further business to come before the Board, Jim DeKruyter motioned to adjourn with Dave Carpenter seconding. The motion passed unanimously, and the meeting adjourned at 6:47 PM.

Respectfully submitted,

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