

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
August 16, 2023**

The Ross Township Zoning Board of Appeals held its August meeting on August 16, 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 – Township Zoning Administrator
Rob Thall – Township Attorney

APPROVAL OF AGENDA: On motion by Bekes, seconded by DeKruyter, the agenda was unanimously approved with moving Public Comment on Non-agenda Items up in order to immediately follow the Approval of Minutes from the July 5th ZBA meeting.

APPROVAL OF MINUTES: On motion by DeKruyter, seconded by Carpenter, the minutes of July 5th were unanimously approved as presented.

Public Comment on Non-agenda Items:

David Scott spoke to share an update on the Alex Harris recall petition. Mr. Scott shared election neglect and a prior board decision asking Clerk Harris to resign as two reasons for the recall. The recall was approved by the Kalamazoo County Election Commission and signatures are now being collected.

As no additional public comment was offered, the public comment on non-agenda items was closed.

NEW BUSINESS:

- 1) **Public Hearing for the Application for Variance of:**
Raghuram Elluru
1446 Burlington Dr.
Hickory Corners MI
Parcel Property Tax Identification Number: 3904-08-390-351

Chairperson Carpenter stated that the next matter to come before the Board was the request by Raghuram Elluru for variance approvals to Article 15 and Section 17.3 of the front yard (lakeside) setback, the minimum side yard setback and overall lot coverage per the sliding scale allowed by the ordinance. The subject site is located at 1446 Burlington Dr. and is in the R-1 Low Density Residential Zoning District within Ross Township.

Bert Gale provided an overview of the request, stating that the proposal is an addition, remodel, and new deck for an existing house. The proposed construction will encroach into the minimum front yard (lakeside) setback by 13 feet eight inches, the minimum side yard setback by one foot six inches and will create an overall lot coverage of 36.9% of the lot where only 31.3% is allowed. Mr. Gale also shared the roadside setback needs variance as well as the distance between the front stoop and the road is 16 feet seven inches versus the 20-foot standard. Attorney Thall opined since the roadside setback was not properly noticed, the ZBA would not be able to consider a variance on road side setback during the August 16th meeting. Thall further opined that he can produce a notice of the variance request in time to put it on the agenda for the September 6th ZBA meeting and the ZBA could continue to consider the properly noticed variances at the present time. Mr. Gale confirmed the Applicants are requesting variances from the Ross Township Zoning Ordinance for their project.

In response to Board questions:

Attorney Thall and Mr. Gale both shared the review on the roadside variance request during the September 6th ZBA meeting would be at no additional cost to the applicant.

Mr. DeKruyter inquired about lot coverage calculations taking the promenade into consideration. Attorney Thall shared the promenade was more of an easement along the property line and was owned by the applicant whereas some promenades are owned by other parties in other areas of the Township. The three contiguous lots (23,24 and 25 Block E, Midland Park Annex) includes language in the parcel description the parcel is subject to easements and restrictions of record. Mr. Gale shared the no construction can occur in the easement and confirmed the project before the ZBA does not have construction within the easement. The conclusion was the lot coverage calculations by AGS are correct.

Chairperson Carpenter opened the public hearing.

Raghuram Elluru was present to represent him and Lori Elluru. He stated their kids are through college, they have a desire to live on Gull Lake full time, the current three level home is very dated, he took into consideration several aspects of neighborhood construction with the planning and stated that he, his architect (Curt Penny) and his builder (Todd Modderman) will all respect the findings of the ZBA.

Curt Penny, the project's architect shared it was a major renovation, they do understand the setback and lot coverage aspects and his belief the project will actually improve neighbor viewshed. The variance requests are mainly due to ensuring proper room sizes within the home and the finished product may become more in compliance than the current structure.

The raised planter area on the drawings were discussed and Mr. Penny shared the plan did not show that area being removed but still covered in grass as a pleasing aesthetic for the back yard. When asked about the elevation of the grassy area, the response was it would only be slightly elevated to allow proper drainage of the property, so not resulting in water pooling during rainfall.

Mr. DeKruyter asked about how there would be access to the pathway from the deck, described as a raised deck 18 inch high from the grade. Mr. Penny shared the intended steps did not show up on the drawing, but will be three steps at four feet wide. Mr. Gale shared since it was not on the plan he did not consider such in either of his lot coverage calculations or frontside setback measurements. When asked what could be done to meet all setback requirements for the entire project, Mr. Penny shared it would require a complete teardown and rebuild. He further shared the major remodel design took into

consideration the setbacks whereas his design minimized the setback variances needed while also building room sizes that would be proper for the home.

The ZBA agreed the setbacks for the project would not hamper emergency response capability nor have any negative environmental impacts to the neighboring properties or Gull Lake.

Public comment included written correspondence in advance of the meeting by Gary and Sherry Moore residing at 1462 Burlington Drive, Hickory Corners who documented their support of approval of the variances requested by Raghu and Christy Elluru with no conditions as the variances being asked for would not impede their views. David and Cindy Wiedemer residing at 1430 Burlington Drive, Hickory Corners who documented their support of approval of the variances requested by Dr. and Mrs. Raghu Elluru with no conditions as they reviewed the plans and deemed no issues. Hellen Hughes residing at 1476 Burlington Drive, Hickory Corners who documented support of approval of the variances requested by Raghuram Ellura(sic) with no conditions as she shared the overall lot coverage by the minimal amount should be no problem to the roads, neighbors, or other houses. And lastly, Cynthia and Robert Poth at 1477 Burlington Dr, Hickory Corners, MI who documented their support of the approval of the variances with no conditions as the project will be an improvement to their neighborhood and community.

Gary Moore of 1462 Burlington Drive, Hickory Corners, MI was present and gave verbal agreement of his support of the project as it would be an enhancement to the neighborhood.

As no additional public comment was offered, DeKruyter moved to close the public comment portion of the meeting, seconded by 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.

Prior to the review, Bekes inquired to Attorney Thall if a conflict of interest may be present as builder Todd Modderman built his home approximately 17 years ago. Attorney Thall opined that did not qualify as a conflict of interest as Bekes had no financial arrangement or current personal dealing with said builder.

The following findings per the review 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 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.
- #4 In consideration of unique physical circumstances, it was recognized that although the size of the lot is similar to many properties in the general area, it is unique as it is also burdened by the easement and storm drain.

#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 and the proposed deck will be provided a waterfront setback similar to the decks on other area homes. In the spirit of the ordinance, the viewshed for the neighbors is not negatively impacted and fire/emergency personnel access to the front yard is not further encumbered with an 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.

Bekes moved to grant variance approval from the 50 ft waterfront setback requirement so as to allow the proposed deck with a 36 foot 4 inch front yard setback with the understanding the stair construction would reduce the front yard setback by two feet maximum, grant variance from the 31.3% lot coverage so as to allow the proposed construction with 36.9% lot coverage with the understanding the stair construction would increase the lot coverage by eight square feet (deemed less than a 1% change) and grant variance from the 10 foot side yard setback so as to allow the proposed side yard setback of eight feet six inches with two conditions.

Condition one – the stairway from the deck to the path would add two feet maximum to the front yard variance request of 13 feet 8 inches.

Condition two – the applicant returns to the September 6th ZBA Meeting for discussion/decision on the front stoop roadside set back variance need.

DeKruyter seconded the motion. The motion carried unanimously.

The applicant, architect and builder unanimously stated construction would not begin until after the September 6th ZBA meeting. Hence, Chairman Carpenter did not fill out the approval paperwork normally given that would allow construction to begin immediately, prior to meeting minutes being finalized and approved. AGS will now issue permits once the August 16th meeting minutes are approved, which is scheduled for the September 6th ZBA meeting.

2) Application for Variance
Bryan and Lory Blowers
383 S. Gull Lake Dr.
Augusta, MI 49012
Property Tax I.D. #3904-17-354-310 and 3904-17-354-320

Chairperson Carpenter stated that the next matter to come before the Board was the request by Bryan and Lory Blowers for variance approvals to Article 15 and Section 17.3 for street setback, minimum side yard setback and overall lot coverage per the sliding scale allowed by the ordinance to build an 8' x 28' addition to an existing garage. The subject site is located at 383 S. Gull Lake Dr. and is in the R-1 Low Density Residential Zoning District within Ross Township.

Bert Gale provided an overview of the request, stating the proposal on this non-conforming lot is to construct an 8' x 28' addition to an existing garage. The proposed construction will encroach into the minimum street setback of 20 feet by three feet, the minimum side yard setback of 10 feet by five feet and result in an overall lot coverage of 31.3% when only 30.4% is allowed. The Applicant is requesting variances from the Ross Township Zoning Ordinance regarding these ordinance standards.

In response to Board questions:

Mr. Gale explained the 8' x 28' includes the area covered with the eaves, whereas the garage addition is actually 8' x 24'.

The storm water runoff would go to both the yard and the lake as it currently runs, not impacting neighbor properties and fire/emergency access to the lake would not be hampered as there is an easement on the other side of the property.

The convergence of the road to the lot line is an angular issue and viewshed is not an issue as the garage addition is in the back of the house and does not impact road views. Also noted was the side yard setback request of five feet is greater than the existing four-foot setback of a living area of the home along the same property line.

Bryan Blowers was present to represent Bryan and Lory Blowers. He stated the current area he would like to build the addition to the garage is currently considered a waste of space. His design takes into consideration keeping the eaves/gutters aligned to ensure rainwater is properly diverted through the gutter system to the drainage areas.

Upon question of access to existing utilities that would reside between the new addition at five feet side yard setback and the four-foot side yard setback of the current home area, Mr. Blowers shared the air conditioning equipment will be relocated to the second-floor area as part of the project, removing it from its current position.

Chairperson Carpenter opened the public hearing.

The public comment portion of the public hearing did not include written correspondence in advance of the meeting by any neighbors.

Jean Leineke, who lives directly to the north of the applicants voiced her support of variance approval as she had reviewed the plans with the applicants and sensed no issue. Gary Kane, a neighbor three homes to the north voiced his support of variance approval as well.

As no additional public comment was offered, DeKruyter moved to close the public comment portion of the meeting, seconded by 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 build an addition onto the garage on the site in compliance with applicable setback requirements are limited, but that not having the addition does not prevent reasonable use of the property.

#3 In determining substantial justice, it was noted that the proposal is supported by adjacent property owners, emergency response access to the front yard is not hampered and environmentally, rain water would be funneled away from neighbors.

#4 In consideration of unique physical circumstances, the members of the ZBA were mixed on the review with two members stating the size of the lot is similar to many properties in the general area but the easement, road right of way and sanitary sewer makes it unique and one member stating the lot is not considered 'unique' to the site with these attributes.

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

#6 The purpose of the street side setback requirement was referenced to determine emergency response would not be encumbered, the viewshed of neighbors would not be impacted and similar properties have similar setbacks.

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.

Bekes moved to grant variance approval from the 20 ft street side setback requirement so as to allow the proposed addition to be 17 feet street side setback, grant variance approval from the 30.4% lot coverage so as to allow the proposed addition with 31.3% lot coverage and grant variance approval from the 10 foot side yard setback so as to allow the proposed addition to be built at 5 feet side yard setback with no conditions.

BOARD COMMENT:

ZBA members Carpenter and DeKruyter asked member Bekes to take the number of cases coming to the ZBA in regard to lake property set back and lot coverage issues into consideration and ask the Planning Commission to consider a review of the current ordinance. Bekes committed to bringing the concern back to the Planning Commission.

Bekes shared information about a meeting that occurred with Supervisor Hutchings, a citizen and himself the prior week in regard to ZBA and Planning Commission process and potential improvement. Bekes asked Carpenter, Gale, Thompson, Thall and DeKruyter to consider the following and discuss opportunity at the September 6th ZBA meeting:

1. Can committee members state at the beginning of each review if they made the trip to personally view what each is asked to approve/disapprove? The citizen's concern is members not truly understanding what is being voted on.
2. Is there option for additional back and forth conversation during the public hearing portion of the meeting? The citizen's thought that everyone only getting three minutes to opine is not as robust as allowing for some conversation.

3. Can we confirm that respective building plans are always available at AGS to the public prior to each meeting? Or when will they be available for review at the Township office?
4. Should we have Chief Martin Brown available at PC and ZBA meetings for additional security?
5. The current process relies on neighbors to complain before unauthorized work is stopped which creates neighbor friction. What other options may be available, and can we hear about what other communities do in terms of work stoppage when project work commences prior to permitting?
6. Should the Planning Commission review the repair versus structure improvement regarding docks Ordinance? The citizen suggests consideration where repairs on non-conforming docks should be handled as if structure changes are being made...ergo being moved at least 10 feet from the property edge as part of the repair.

OTHER BUSINESS:

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

ADJOURNAMENT:

There being no further business to come before the Board, DeKruyter moved to adjourn the meeting with Bekes supporting. The motion passed unanimously, and the meeting adjourned at 7:19 PM.

Respectfully submitted,

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

