

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
APPROVED MEETING MINUTES
November 5, 2025**

The Ross Township Zoning Board of Appeals (ZBA) held its regular meeting on November 5, 2026 at the Ross Township Hall. Chairperson DeKruyter called the meeting to order at 5:30 PM.

Present: Jim DeKruyter, Chairperson
Michael Bekes, ZBA Member
Bonnie Sawusch, ZBA Member
Cheryl Duffy-Geiger, ZBA Member

Absent: Frank Guarisco, ZBA Member

Also present: Bert Gale, AGS – Township Zoning Administrator
Nick Keck, AGS – Township Zoning Administrator
Robert Thall – Township Attorney

APPROVAL OF AGENDA

Duffy-Geiger moved to approve the agenda as presented and Bekes supported. The motion carried with a 4 – 0 vote.

APPROVAL OF MINUTES

Sawusch moved to approve the minutes of September 3, 2025, ZBA meeting as written and Duffy-Geiger supported. The motion carried with a 4 -0 vote.

OLD BUSINESS

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

NEW BUSINESS

Public Hearing on Application for Variance of Allendale Park Condo Association at 140 and 160 East Gull Lake Drive. The Subject Parcel Property Tax Identification Numbers: 3904-20-171-101 and 3904-20-171-103 located in the C-1 Bay Commercial Zoning District within Ross Township.

Chairperson DeKruyter stated that the next matter to come before the committee is the request by the Allendale Park Condo Association for a variance to waive the standard in Section 10.6.D requiring the installation of a sidewalk.

Gale shared in writing prior to the meeting the requirements in Section 10.6.D (Sidewalks and Pedestrian Linkages) in the Site Development Standards include the following:

1. Where they do not exist, sidewalks shall be provided along the abutting road and may be within the public right-of-way.
2. Sidewalks and/or pedestrian linkages shall be provided between parking areas and buildings on the same lot and between shared parking areas that are not otherwise physically connected to each other or the building served.
3. Sidewalks and/or pedestrian linkages shall be routed through landscape areas.
4. Dumpsters and service functions shall be separated from pedestrian circulation routes and shall be screened as required by Section 18.6 of this Ordinance.
5. On-site links from the lot to abutting public pathways will be encouraged.

Gale stated the site plan had been approved by the Planning Commission (PC) at a prior meeting with the proposed sidewalk being within the road easement. The complication of being in the road easement led to the Road Commission of Kalamazoo County (RCKC) to accept the sidewalk only if Ross Township would sign a document waiving future liability of said sidewalk. The Township board voted to not sign the waiver noting the applicant can come before the Zoning Board of Appeals (ZBA) to request a waiver. The board is also on record with their interest in the PC reviewing the site plan Section 10.6.D language regarding required sidewalks in the Zoning Ordinance.

Thall stated the C1 – conditional rezoning requires sidewalks, and the PC could not waive that provision during the site plan review. Thall opined a small change to the ZO potentially by inserting the word ‘may’ to replace the word ‘shall’ should give the PC latitude in future site plan reviews. Thall confirmed the Ross Township board voted to not give RCKC a waiver and the option to the applicant to request a variance from having a sidewalk constructed.

Jack Gesmundo was present on behalf of the applicant and shared a brief history of the property/project. Originally, the project was to build three homes in the C1 District on that lot before strategically moving to the current two-home arrangement.

Further questions from ZBA members concluded that a sidewalk in that area would not connect to any other sidewalk and the area would remain the same as it has been over the past couple of years with a waiver.

Bekes moved to open public comment and Duffy-Geiger supported. The motion passed with a vote of 4 – 0.

Chairman DeKruyter noted that no written correspondence on the matter had been received.

With no further public comment offered, Bekes motioned to close public comment and Duffy-Geiger supported. The motion was carried unanimously, and the public comment period was closed.

Section 23.8 – ‘Variance Standards and Conditions’ gives the Zoning Board of Appeals the authority to grant nonuse variances related to dimensional requirements of the Zoning Ordinance or to any other nonuse-related standard in the Ordinance where there are practical difficulties in the way of carrying out the strict letter of the Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured and substantial justice done.

In determining whether practical difficulties exist, the Zoning Board of Appeals considered the following factors.

- #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 found the variance will not permit any use not allowed by the ZO.

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

Two members of the ZBA determined that the Zoning Ordinance (ZO) would not impose an unnecessary burden, while two other members concluded that the ZO would present an unnecessary burden with respect to conformity.

- #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 that 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.**

The ZBA found the granting of the variance would do substantial justice to the applicant as there is no room for the sidewalk, and the RCKC denies the construction of the sidewalk within the easement without Ross Township waiving liability, which Ross Township declined. The lack of sidewalks nearby was another factor in ensuring fairness to other property owners.

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

Two members of the ZBA found the hardship asserted is due to the unique circumstance where the site plan approval must include a sidewalk where one is not allowed per both Ross Township and the Road Commission of Kalamazoo County and two members found the hardship is not due to the unique circumstance as the ZO refers to the property rather than circumstance.

- #5 That the hardship asserted by way of justification for the variance is not self-created.**

The ZBA found the hardship asserted is not self-created as the RCKC would not allow construction of the sidewalk within the road easement without a liability waiver by Ross Township, which was denied.

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

The ZBA found the spirit of the ZO is observed, public safety and health is secured and substantial justice is done as the required sidewalk is not approved by actions of the RCKC and Ross Township board. No other sidewalks in the area to attach to and the Ross Township board now asking the PC to review the ZO in these types of circumstances to determine if other language could be used in the ZO to allow decisions appropriate with the circumstance in site plan reviews are additional points of consideration.

Bekes stated the above findings are based on the documentation presented by the applicant and the representations made at the meeting.

Bekes moved to grant variance approval to remove the requirement of installing the sidewalk at 140 and 160 East Gull Lake Drive. This approval is based upon the stated findings of the ZBA members on variance criteria of #1, #3, #5 and #6 set forth in Section 23.8 of the Zoning Ordinance, with equal weight consideration of the four components with zero conditions. Duffy-Geiger supported and the motion was carried with a 4 – 0 vote.

The next item on the agenda is a request for a variance to Article 15 (Schedule Lot, Yard and Area Requirements) for front yard setback for the addition of a 144 square foot front porch at 7906 N. 43rd Street. The subject Parcel Property Tax Identification Number 04-22-115-015 is a conforming lot located in the Rural Residential Zoning District.

Chairman DeKruyter stated the request by Jason Merrick is to build a porch with a 36-foot setback from the road right of way when the zoning ordinance requires a 50-foot setback.

Gale stated the proposed porch would meet lot coverage restrictions at 3.52% of the property versus the required 10%, would meet the side yard setback at 70 feet versus the required 10 feet and only the front yard setback at 36 feet versus the required 50 feet is what needs a review and a variance decision.

Gale explained how the road right of way is determined as it is not consistent across the Township.

Jason Merrick was present on behalf of the applicant and stated the home had been vacant for the last two years and he bought the property to upgrade the structure with plans to resell. The prior porch was basically steps down and the new front porch at a five-foot depth would be more useable and a desirable feature.

ZBA discussion concluded that the 36 foot setback from the edge of the road right of way is approximately 60 feet from the actual road, there are no site line impacts to neighboring properties, no safety concerns are evident and the variance request is the only item preventing the applicant to obtain a building permit as there is a stop order currently assigned to the property.

Bekes moved to open public comment and Sawusch supported. The motion passed with a vote of 4 – 0.

DeKruyter opened Public Comment:

Susan Anthony inquired about the potential of trees being cut down with the project, to which Merrick responded there are no trees impacted with the project.

Chairman DeKruyter noted no written correspondence on the matter had been received.

With no further public comment offered Duffy-Geiger motioned to close public comment and Bekes supported. The motion carried with a 4 – 0 vote and the public comment period was closed.

Section 23.8 – ‘Variance Standards and Conditions’ gives the Zoning Board of Appeals the authority to grant nonuse variances related to dimensional requirements of the Zoning Ordinance or to any other nonuse-related standard in the Ordinance where there are practical difficulties in the way of carrying out the strict letter of the Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured and substantial justice done.

In determining whether practical difficulties exist, the Zoning Board of Appeals considered the following factors.

#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 found the project is allowed under the ZO.

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

The ZBA found conformity to the ZO would require the home to be moved back into the lot which was considered unnecessarily burdensome. Discussion about an option of leaving it the way it was prior to the porch build identified the same concern as a replacement set of steps would need the same variance consideration as the setback from the road would still be less than 50 feet.

#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 that 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.

The ZBA found substantial justice of granting a variance for the 36-foot road side setback would benefit the applicant and the other property owners as the home would be more useable with the five-foot porch and the construction does not impede any site lines from neighboring properties.

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

The ZBA found there are no unique circumstances of the property.

#5 That the hardship asserted by way of justification for the variance is not self-created.

The ZBA found the hardship is self-created.

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

The ZBA found the spirit of the ZO is observed as there are no safety concerns and no impeded viewshed issues to neighbors.

Bekes stated the above findings are based on the documentation presented by the applicant and the representations made at the meeting.

Bekes moved to grant variance approval for the applicant to construct a porch at 7906 N 43rd Street with a front side setback of 36 feet to the road right of way point with no conditions. This approval is based upon the stated findings of the ZBA members on variance criteria of #1, #2, #3, and #6 set forth in Section 23.8 of the Zoning Ordinance, with equal weight consideration to each.

Sawusch supported and the motion carried with a 4 -0 vote.

The next item on the agenda is a request for a variance to Article 15 (Schedule Lot, Yard and Area Requirements) for roof height of an accessory building at 1381 W. Gull Lake Dr. Subject Parcel Property Tax Identification Number 04-18-402-270 is a non-conforming lot located in the R-1 Zoning District.

Chairperson DeKruyter explained that Bruce Hutchinson has requested to construct a detached garage, which will include a workshop and storage space on the upper level.

Gale stated the proposed meets ZO restrictions for total lot coverage, rear yard lot coverage, side yard setback and street side setback. The roof height of 21.5 feet is more than the 18-foot ZO restriction and is the only specification that is up for variance review and decision. Gale shared how roof heights are determined per ZO and that an old garage burned down in the designated area where the new garage will be built.

Bruce Hutchinson was present on behalf of the applicant and was available to answer questions. ZBA questions established that the home is not impacted with the proposed garage as it is unattached and where the drawings had the peak of the roof at 26 feet, Gale's explanation of how roof heights are measured to arrive at the 21.5 foot was fully understood. Hutchinson shared his attempt to get the roof lower, as in not having a second story as the original garage that burned was a one-story structure, sticking with a second level as the benefit of the additional storage

took priority. Hutchinson shared he has a contractor ready to start and would like to get going on with the project if a variance is granted.

Bekes moved to open public comment and Sawusch supported. The motion passed with a vote of 4 -0.

Steve Hildebrand requested clarification regarding the roof height ordinance, specifically whether the ZO provides a single roof height measurement irrespective of whether a structure is one or two stories. Gale confirmed the Ross Township ZO stipulates all roof heights are measured the same for all structures.

Chairman DeKruyter noted that no written correspondence on the matter had been received.

With no further public comment offered, Duffy-Geiger motioned to close public comment and Bekes supported. The motion carried with a 4 – 0 vote and the public comment period was closed.

Section 23.8 – ‘Variance Standards and Conditions’ gives the Zoning Board of Appeals the authority to grant nonuse variances related to dimensional requirements of the Zoning Ordinance or to any other nonuse-related standard in the Ordinance where there are practical difficulties in the way of carrying out the strict letter of the Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured and substantial justice done.

In determining whether practical difficulties exist, the Zoning Board of Appeals considered the following factors.

#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 found the unattached garage is a permitted use within the R-1 Zoning District.

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

The ZBA found that compliance with the strict letter of the ZO would not be unnecessary burdensome as a one-story structure could be constructed in the same location.

#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 that 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.

The ZBA found that granting a variance would do substantial justice to the applicant as there was a garage at the location previously and substantial justice to the neighbors as the building would create no viewshed impact from neighboring properties including the property across the street from the project and with no safety issues evident.

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

The ZBA found the hardship is not due to unique circumstances of the property.

#5 That the hardship asserted by way of justification for the variance is not self-created.

The ZBA found the hardship asserted is self-created.

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

The ZBA found the application meets the spirit of the ZO as there are no viewshed impacts to neighbors, public safety and health is secured as no safety issues are apparent and substantial justice is done as the applicant's request for a second story storage area to allow them to move items from two storage units to their property will help them as they age.

Bekes stated the above findings are based on the documentation presented by the applicant and the representations made at the meeting.

Bekes moved to grant variance approval for the applicant to build the unattached garage at 1381 W. Gull Lake Drive with a building height maximum of 21.5 feet with the conditions that the garage is only used for residential activity, it is not used for sleeping purposes, there will be no commercial activity on the premises and it will be used only for residential storage. This approval is based upon the stated findings of the ZBA members on variance criteria of #1, #3, and #6 set forth in Section 23.8 of the Zoning Ordinance, with a higher weight consideration of #6 as the spirit of the ZO is deemed observed.

Sawusch supported and the motion carried with a 4 – 0 vote.

The next item on the agenda is a request for a variance to Article 15 (Schedule Lot, Yard and Area Requirements) and Section 22.9 (Building/Structure Setback and Building Coverage Requirements Applicable to Lawful Nonconforming Lots) for a new home build at 445 S Gull Lake Drive. Subject Parcel Property Tax Identification Number 04-17-354-240 is a lawful nonconforming property located in the R-1 Zoning District.

Chairperson DeKruyter stated the request is for variances for lakeside, side yard and roadside setbacks, and total lot coverage for a new home construction by Mallory and Jason Varner.

Gale stated the proposed new home would have total lot coverage of 35.77% (Ordinance Requirement is 32.2%), lakeside setback of 20 feet (Ordinance Requirement is 50 feet), side setbacks at five feet and eight feet (Ordinance Requirement is 10 feet) and street setback at 10 feet (Ordinance Requirement is 20 feet). Gale provided an aerial view of the subject property that captured the four closest homes with lake fronts on each side of 445 S. Gull Lake Dr.

Jason Varner, Mallory Varner and Steve Hildebrand were present on behalf of the applicant.

ZBA discussion determined the Ross Township Fire Department was not consulted on the five- and eight-foot side yard setbacks regarding emergency access to the lakeside and an engineering study was not conducted on the soil regarding excavation concerns near the neighbor homes. Gale explained if the property frontage/lot width is less than 70 feet, the side yard setback could be five feet per ZO Section 22.9.A.2.c, but since the property frontage/lot width is greater than 70 feet, ZO Section 22.9.A.2.d applies with a result of the requirement of a 10 foot minimum side yard setback.

Gale opined that soil considerations and associated problems are not within the ZBA purview. Steve Hildebrand shared how soil considerations can be mitigated with proper construction methods.

Bekes moved to open public comment and Sawusch supported. The motion passed with a vote of 4-0.

Jack Gesmundo is concerned with the view line from the patio of the adjacent home if the new home is built with a 20-foot lakeside setback.

Susan Anthony shared she is a cousin of the owner of an adjacent home and was concerned about soil removal during construction, the large equipment needed for the construction, the potential impact to the current well located in the driveway and what might happen to a large pine tree on the property.

Chairman DeKruyter noted that written correspondence on the matter from Eric Eshuis was received and shared with the ZBA.

With no further public comment offered Chairman DeKruyter motioned to close public comment and Bekes supported. The motion carried with a vote of 4-0 and the public comment period was closed.

Sawusch shared past variance request approvals regarding lakeside setback variance requests compared to the project at 445 S Gull Lake Drive, citing a study conducted in 20024. Granting a 20-foot setback could create viewshed issues to the neighboring homes and the five-foot side yard setback already established on the adjacent lot would create safety issues if a five-foot side yard setback were to be granted with the proposal in front of the ZBA.

The ZBA agreed to move through the review process outlined in Section 23.8 by breaking out the various variance requests when necessary.

Section 23.8 – ‘Variance Standards and Conditions’ gives the Zoning Board of Appeals the authority to grant nonuse variances related to dimensional requirements of the Zoning Ordinance or to any other nonuse-related standard in the Ordinance where there are practical difficulties in the way of carrying out the strict letter of the Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured and substantial justice done.

In determining whether practical difficulties exist, the Zoning Board of Appeals considered the following factors.

#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 determined that building the new home is permitted within the R-1 Zoning District.

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

The ZBA found compliance with the strict letter of the ZO would not be unnecessarily burdensome as a home is already built on the lot.

#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 that 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.

The ZBA found with a vote of 3 – 1 (Bekes voting no) that no relaxation of the 10-foot side yard setback per the ZO would do substantial justice to both the applicant and the other property owners in the surrounding area as the greater distance between houses would be safer due to a less chance for fire jumping to adjacent homes, better access of lake front locations in the area by emergency firefighting equipment or other safety equipment by first responders and less concern about excavation issues to neighboring homes. Bekes shared his view that the five- and eight-foot setback requests were actually structure points as a rectangular home will be built on a trapezoid shaped lot, resulting in a greater than 10-foot side yard setback for most of the structure.

The ZBA determined that a 10-foot roadside setback would give substantial justice, noting the existing home has about 7.5 feet, while neighboring homes have 12.5 feet and 2 feet roadside setbacks, respectively.

The ZBA found a lesser relaxation of the lakefront setback to 35 feet would offer substantial justice to both the applicant and neighbors as viewshed issues to neighbors would not be significantly impacted and shoreline preservation would be enhanced as the lake would be protected by the additional setback.

The ZBA found the 35.77% lot coverage request would do substantial justice to the applicant without impacting neighboring properties.

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

The ZBA found the hardship is not due to unique circumstances of the property.

#5 That the hardship asserted by way of justification for the variance is not self-created.

The ZBA found the hardship is self-created.

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

The ZBA found with setbacks of 10 feet for each side yard setback, 2035 feet on the lakeside setback and 10 feet on the roadside setback with a total lot coverage of 35.77% would ensure the spirit of the ZO is observed, that public safety and health is secured as fire and safety issues are mitigated and substantial justice done to both the applicant and the neighboring properties.

Thall answered the question of allowing lot coverage of greater than 35.77% with the review of Section 23.8 by stating the ZBA cannot improve on any variance request coming forth as those changes would need to be properly noticed to neighbors with another ZBA meeting held to decide the matter.

The applicant inquired about only having a 10-foot side yard setback on one side of the home and if they can keep the current roadside setback of 7.5 feet. After discussion, the ZBA found the 10-foot setback for both side yard setbacks would remain and consideration may be given for both the 7.5-foot roadside setback and lot coverage. When asked, the applicants stated they are still very much interested in pursuit of constructing a new home on the lot with their understanding of the ZBA's review findings.

Bekes stated the above findings are based on the documentation presented by the applicant and the representations made at the meeting.

Bekes moved to postpone the decision on variance approval for the applicant to build a new home at 445 S Gull Lake Drive to the next ZBA meeting if a new site plan can be reviewed by AGS and meeting notifications can be sent timely to the public. An approval decision would be based on the stated findings of the ZBA members on variance criteria of #1, #3, and #6 set forth in Section 23.8 of the Zoning Ordinance, with a higher weight consideration of both #3 and #6 with the following conditions:

1. 10-foot side yard setbacks.
2. 10-foot roadside setback.
3. 35-foot lakeside setback.
4. Lot coverage at 35.77%.

5. A new site plan is submitted to AGS for review prior to coming before the ZBA for decision.

Duffy-Geiger supported and the motion carried with a 4-0 vote.

BOARD MEMBER TIME

Bekes stated that the Ross Township board unanimously approved a new ZBA fee structure in October, requiring parties who start work without a permit and receive an AGS Stop Work order to pay non-compliance costs. The new fees are now in effect.

General discussion on recent ZBA related events ensued.

ADJOURNMENT

There being no further business to come before the ZBA, Bekes motioned to adjourn, and Duffy-Geiger supported. Passing unanimously, the meeting adjourned at 8:10 pm.

Respectfully Submitted,

Michael Bekes
Acting Recording Secretary