

**ZONING BOARD OF APPEALS
Ross Township
September 6 2006**

The Ross Township Zoning Board of Appeals held its regular meeting on **September 6, 2006 at 5:30 P.M.** in the Ross Township Hall. Chairman Carpenter called the meeting to order and noted those present.

Present were: D. Carpenter
 A. Harmon

Absent was: J. Scott

Also present was: G. Webster, Building Department
 C. Rolfe, Township Attorney

APPROVAL OF AGENDA On motion by Harmon seconded by Carpenter the agenda was unanimously approved.

APPROVAL OF MINUTES OF June 7, 2006

On motion by Harmon seconded by Carpenter the Minutes of **June 7, 2006** were unanimously approved with the following changes:

Page 2, first line: change: “places” to “placed”
Page 2, third paragraph from bottom: change: “Sever” to “severe”

OLD BUSINESS

NEW BUSINESS

1. Ron and Nancy Schultz

**Property located at: 1469 W. Gull Lake Dr.
Property tax I.D. #: 3904-18-405-010**

Proposed is the construction of main and second floor additions, and interior renovation of an existing nonconforming structure. The existing residence is located on a nonconforming, unplatted, waterfront parcel, which is located in the R-2 Zoning District. The property is subject to a private access easement serving two properties lying east of the subject property. Based on the status of the easement as a primary access to these properties it is deemed to be subject to a minimum street setback.

The main floor addition of 250 sq.fr. is proposed at approximately 45 feet from the lake and 20 feet from the private easement line, where 58 feet from the lake and 35 feet from the easement line is required.

The second story addition of approximately 1365 sq.ft. is proposed at approximately 45 feet from the lake and 12 feet from the private easement line where 58 feet from the lake and 35 feet from the easement line is required.

The main floor addition to the home will increase the total lot coverage to approximately 22.2% where 20% is the permitted maximum.

Mr. Schultz, Charlie Dunn, architect, and Mr. Glass, builder, were all present. Mr. Schultz explained that he purchased the property four years ago. He believes that his hardship centers on the fact that the distance from the lake to the street is only 100 feet. He showed on his drawing the limited area in which a house could legally be built. Being so narrow, it can not contain a home and observe all of the setback requirements. The closest point of the existing house to the right-of-way is 12 feet. He does not want to encroach closer to the lake than the existing structure. On the sides he will maintain the required setbacks. He said that an alternative would be to construct a colonial second floor on the existing footprint.

Mr. Dunn noted that the street provides access for four parcels.

In response to Carpenter, Schultz said that the nearest structure on the SW side is approximately 120 feet away. On the NE side the nearest home is approximately 60 feet away.

Carpenter opened the meeting to public comment.

John Luchsinger, nearby resident, questioned the easement, and noted that the parcel where Schultz wants to build was exempted from the plat. He also asked if there were encroachments onto adjacent properties or if there were reductions in side setbacks being requested. He is also concerned with traffic congestion in the area. He pointed out that the ZBA had recently granted variances to another property in the vicinity, which has created traffic problems. He asked what the criteria for granting variances is. He also asked if the fact that the existing house is nonconforming makes a difference.

Wanda Clawson, nearby resident, asked where the easement actually was.

Eric Knapper, 1485 Schoal Ave, was concerned with the ownership of the Schwartz property.

Carpenter explained the process and the criteria that the ZBA would be using to grant or deny a variance request.

Rolfe followed up by explaining that the deliberations consider the specific facts surrounding the request and the property.

Deanna Gimmerich, owner of lot #9, wanted to know if the ZBA would visit the site, and Carpenter said that the members usually drive by the property before the meeting. Gimmerich said she has no objection at this point.

Eric Knapper asked how the existing house came to be only 12 feet from the easement, and he was told that the house predates the ordinance requirements. He also asked who actually owns the easement, and Rolfe said that the ZBA would not go into that issue. He asked about the alternative plan that Schultz suggested if this variance could not be granted. He is concerned with the height of the house.

Bob Solt and Ann Coulter were present to ask what the dimensions of the 420 sq.ft. addition would be and were told that it is to be approximately 12' X 22'. They also asked if Schultz has the right to construct a second story, and he was told that because the existing structure also does not comply with the setbacks, a second story at the same perimeter lines is effectively precluded. Solt was also concerned with the vagueness of the second floor proposal.

Harmon noted that some variance relief is required in order to construct on this lot. He noted that the lot has 16,000 sq.ft. where the ordinance requirement is only 15,000 sq.ft. He asked why there is such a large lot coverage request. He believes that it is based on the desire of the applicant alone.

Ann Coulter asked about the easement and if the owner could change its location, and if he did, would he be able to meet the setback requirement.

Bob Rinhardt, nearby resident, asked how far it is to the side line on the NW.

Schultz said that he also owns adjacent property, which could be added to the property where the house is.

Carpenter wondered if it is an absolute necessity to expand in the manner proposed. He believes that there is adequate property here for a house of the minimum size to be constructed. He wonders if there is basis to grant the variance. He believes that the ZBA would be making the house much more nonconforming if it grants the variances requested.

Glass said that the view of the neighbors is profoundly effected by a second story addition. So the owner does not want to do that, but it may be his only alternative.

Schultz asked if he could reduce the footprint request at this meeting to make it comply with the lot coverage limitation.

Rolfe asked if the ZBA knows what the second story is supposed to look like.

Harmon responded that the ZBA does not know what the second floor addition would look like, and the location where it would be is at the narrowest part of the building envelope.

Rolfe said first that this is an unplatted lot, and lot width actually should be 200 feet pursuant to Section 7.12. He said that he struggled with the setback requirements applying to the easement.

In response to Rolfe's question, Webster explained that the Zoning Administrator made the determination that because the easement is primary access to several other properties the minimum street setbacks apply.

Rolfe believes that right-of-way of a preexisting, private road and a public street do not apply here. The easement does not qualify for consideration as a street or private road, and therefore the rear or front setbacks should not apply.

Rolfe concurred with Carpenter's view that in the absence of a house design, which includes the second floor, the ZBA would find it difficult to grant a variance.

Harmon and Carpenter agree that the lot coverage issue may not allow the ZBA to approve a variance.

Harmon moved to affirm Attorney Rolfe's that the setbacks do not apply to the easement as determined by the Zoning Administrator. The motion was seconded by Carpenter, which was unanimously approved.

On motion by Harmon seconded by Carpenter and unanimously approved the public hearing was recessed until October unless the applicant contacts the Township saying that he is not prepared, in which case the public hearing will be recessed until the November meeting.

PUBLIC COMMENT

OTHER BUSINESS - Harmon said that the Planning Commission has been considering 50% of square footage instead of 50% of market value as the cutoff, after which a nonconforming house could not be reconstructed in certain areas of the Township.

ADJOURNMENT - On motion by Harmon seconded by Carpenter and unanimously approved the meeting was adjourned.

Respectfully submitted,
Gary Webster, AGS