

ZONING BOARD OF APPEALS
Ross Township
December 6, 2006

The Ross Township Zoning Board of Appeals held its regular meeting on **December 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
 J. Scott

Absent was:

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

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

APPROVAL OF MINUTES OF November 1, 2006

On motion by Scott seconded by Harmon the Minutes of **November 1, 2006** were unanimously approved with the following changes:

Page 1, last paragraph: add “belonging to the Gull Lake Ministries” after the phrase “...the promenade area.”

Page 2, 3rd paragraph from bottom, 1st sentence: change “an” to “a” in the phrase “...is not a matter of...”

MEMO REGARDING THE SCHULTZ VARIANCE

Webster outlined the Zoning Administrator’s memo dated November 14, 2006, which asked the ZBA to make the determination of the rear lot line on the Schultz property. It is important since whatever is not front or rear lot line becomes a side line. He had initially determined that the rear lot line consists of two lines, one being 62.89’ and the other 28.07’. Together, as a nearly straight line most distant from the front line and most nearly parallel to it, they appear to form the most appropriate rear line.

In response to Carpenter, Webster said that in his opinion the rear line should be that outlined by Mr. Dean.

Rolfe agrees with Dean, and said that the ZBA can not change the plain language of the Ordinance, unless there is some reason to.

After hearing the three scenarios that Mr. Dean outlines as alternative rear lines, the ZBA agreed with Mr. Dean's determination.

Harmon questioned the way the Ordinance is written, and believes that the language of Section 10 means that all buildings taken together relative to the lot area constitute the lot coverage. The accessory building certainly is limited in size by the size of the rear yard, but it should not be excluded in the calculation of total lot coverage for "Principal Building or Structure" in Section 10. He then noted that the accessory building is in both the side and rear yard. He said that if Rolfe's interpretation is correct, then that portion of the building, which is in the rear yard is subject to the 15% rear yard limitation. Does the remainder of the building then form part of the primary building lot coverage?

Rolfe responded that the size of an accessory building is determined by the percentage limitation of the rear yard (in this case 15%). While it would have to comply with setbacks from property lines and other buildings, it makes no difference where that building is located on the lot.

Harmon then noted that the addition on the rear of the house in this case decreases the size of the rear yard and thereby subjects the accessory building to a different area limitation. He suggested that any variance be conditioned upon the calculations of accessory building/rear yard ratio being made before any permit is issued.

Harmon moved to concur with the Dean interpretation in paragraph two of the memo dated November 14, 2006. The motion was seconded by Scott and unanimously approved. The official rear lot line for this lot is a combination of the lines measuring 62.89' and 28.07 feet.

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.

Several distinct exterior modifications are proposed:

- 1. 470 sq.fr. addition on the southeasterly side of the dwelling (study, master bath and closet)**

2. **219 sq. ft. addition on the southwesterly side of the dwelling (dining and laundry rooms)**
3. **336 sq.ft. addition on the northwesterly side of the dwelling (garage, mudroom and foyer)**
4. **410 sq.ft. of the second floor addition (bedroom and bathroom)**
5. **Reduction of lake-side decks**

The study, garage and lake-side decks encroach into the required 58-foot lake setback.

Ron Schultz was present to explain his new request. He now has clarified what the second floor is to look like, and has provided an elevation of the structure.

Carpenter asked if there is a well on the property, and he was told that there is. The sewer runs down the easement.

Scott believes that the additions do not extend the otherwise anticipated useful life of the structure.

Rolfe believes that the proposed add-ons are relatively small with respect to the size of the entire house. He agrees that the useful life of the home would not be extended.

Harmon asked who owns the vacant parcels on either side. To the east Bob and Ann Couture own one of them and Schultz owns the nearest one to the east.

Carpenter opened the meeting to public comment.

Ann Couture nearby neighbor asked how the lot lines have been changed.

Schultz said that the Township Board approved an addition to the lot area at the rear. This has changed the lot coverage and rear setback issues.

Couture also asked about the definition of a private road, and Rolfe said that it is irrelevant for this request.

Dunn agreed with Harmon that the garage and the study could be moved back without an encroachment into any easement, although he believes that it is a safety issue to have the garage too close to the easement.

There was considerable discussion regarding whether the requests here derive from design desires rather than hardships on the land.

Harmon believes that the requests on the ends of the house are a design issues and are self-created hardships. He however does believe that the bay window additions pose no problem.

Dianne Knaper has a concern with height of the new additions and whether the house encroaches too close to the park access.

Ann Couture wants the ZBA to consider as a condition of the variance the attempts of people to obtain park areas by adverse possession.

Peg Gemrich is concerned with the space near the private easement. The emergency vehicles need space to make the turns.

Schultz said that the property owner to the west is his brother, and he wants the ZBA to be aware of that.

Scott said that if a large enough deck were built on the adjacent lot, the owner may not need a variance.

After a lengthy discussion of what could happen on the adjacent property, Rolfe advised the ZBA that it must find that the intent and purpose of the Ordinance language to be complied with particularly as it relates to sight lines, which is the underlying principal behind lake-side setback requirements.

On motion by Harmon seconded by Scott and unanimously approved, the public hearing portion of the meeting was closed.

Harmon asked to have the side additions segregated from the bay windows and the alterations on the lake side.

The ZBA considered only the lake side alterations first.

Harmon said that the cove in the lake creates a practical difficulty on this lot. The location of the sewer prohibits alternative locations in the rear. Decks have been found to be a right of waterfront properties, and the useful life of this structure is not being extended by the proposed additions.

The ZBA agrees that no substantial detriment is posed by the lakeside additions, since the decks are below sight lines.

Harmon also said that given the fact that the existing non-conformity on this lot is being reduced, the variance is in line with the intent and purpose of the Ordinance.

Scott believes that the distance separation from the right-of-way is a positive attempt to preserve the safety, health and welfare of the public.

The ZBA agrees the exceptional and extraordinary circumstances on this lot are the location of the sanitary sewer, the shape of the lot, and the shape of the cove.

Harmon believes that a waterfront lot has a right to a deck.

The ZBA believes that this request is not recurrent in nature based on the lake contour, sewer location, and shape of the lot.

Harmon moved to grant the variance for the decks, bay windows, and lake-side improvements provided that the plans provided to the Board are scaled and complied with. The motion was seconded by Scott and unanimously approved. The lake-side additions and alterations were **APPROVED**.

In considering the two additions, one on either end of the house, Harmon talked first about hardship: With respect to the side additions, he believes that the floor area is very large, and there is nothing about the lot which would support a variance. He believes that the design of the additions constitute a self-created hardship.

Scott believes that the additions are design-based problems.

With respect to substantial detriment to adjacent properties, Scott and Harmon agree there are none

Harmon believes that granting this variance would impair the intent and purposes of the Ordinance. The reasonable consistency of sight lines along the lake would be violated, and this is a primary issue for the Ordinance. Scott agrees.

Based on the record thus far Harmon moved to deny the variances for the garage and study additions. The motion was seconded by Scott and unanimously approved. The variance for both side additions was **DENIED**.

OLD BUSINESS - None

PUBLIC COMMENT

Ann Couture asked for clarification on the variances granted. She asked if an addition on the back of the house does not have to comply with setbacks from any right-of-way

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

Respectfully submitted,
Gary Webster, AGS