

**ZONING BOARD OF APPEALS  
ROSS TOWNSHIP  
November 05, 2008**

The Ross Township Zoning Board of Appeals held a regular meeting on **November 05, 2008 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  
                              J. Lauderdale  
                              J. Scott (alternate)

Absent was:            E. Harvey

Also present was:     C. Rolfe, Township Attorney  
                              B. Dean, Zoning Administrator

Audience (in lieu of sign-in attendance roster):  
                              Steven & Patrice Kucera – applicants  
                              Richard Rosenberger – contractor for applicants

**APPROVAL OF AGENDA:**

Carpenter asked that the agenda include approval of the August 6, 2008 and the October 22, 2008 meeting minutes. On motion by Lauderdale, seconded by Scott, the agenda was unanimously approved, as amended.

**APPROVAL OF MINUTES OF:     August 6, 2008 and October 22, 2008**

On a motion by Lauderdale, seconded by Scott, the minutes of **August 6, 2008** were unanimously approved with the following changes:

1. Page 2, paragraph 1: change “are” to “area”
2. Page 3, paragraph 7: insert “However, to grant a variance” at the beginning of the second sentence
3. Page 7, bullet 1: change “site” to “sight”

On a motion by Lauderdale, seconded by Scott, the minutes of **October 22, 2008** were unanimously approved with the following changes:

1. Page 1, paragraph 3: delete “to” between “remedy” and “the effect”
2. Page 1, paragraph 4: delete “that” following “Rolfe summarized”
3. Page 2, paragraph 2: first sentence to read “Lauderdale summarized discussions of the ‘R-2 to R-1’ issues by the Township Board, with respect to Ordinance No. 180:”
4. Page 3, paragraph 5, sentence 2: insert “garage” before “request”
5. Page 3, paragraph 7, sentence 2: change reference to “Section 6.9”

6. Page 3, paragraph 7, sentence 3: insert “the” between “than” and “physical”
7. Page 4, paragraph 2: change “in” to “an”

## NEW BUSINESS

1) **Steven & Patrice Kucera**  
**7296 Stoney Creek Drive**  
**Property Tax ID # 3904-24-420-120**

Proposed is the addition of a single-stall garage (12' x 28') to an existing dwelling. The property is located in the R-1 - Residential District. The attached garage is proposed 6 feet 6 inches from the north lot line, where 10 feet is the minimum side yard setback.

Carpenter recognized Rich Rosenberger, developer of the Stoney Creek Plat, and Mr. Rosenberger summarized the process the Kucera have followed and stated that he may be the contractor for this project, and is present representing the Kuceras.

Carpenter disclosed that he lives in the plat, but does not feel this represents a conflict of interest.

Mr. Kucera indicated that his wife has made most of the preparations related to the variance application, and stated that the project will make the home's appearance conform with the norm within the neighborhood.

Mrs. Kucera described that the lot is wooded in back (east of home), the septic system is in the southwest portion of the lot, the reserve space for future septic is south of the home, and that the area south of the home is always wet. She added that two (2) trees would be removed to make room for the garage addition.

Mr. Kucera stated that they were unsure of the north lot line until the survey completed, in fact, they have mowed and cared for a portion of neighbor's property for a period of time.

Carpenter asked about location of structures on adjacent properties

Rosenberger stated that the house to the north is approximately 35 feet from the Kucera's north lot line. He stated that the Kucera's house is fairly secluded and is screened from other properties by trees and parkland. He added that the septic effectively occupies the front yard, which is the area immediately south of the house. He stated his belief that the architectural committee of the plat would prefer this configuration, with an attached garage, rather than a detached garage.

Lauderdale stated his observation that the elevation appears to change substantially moving north from the existing garage, and asked if this would affect the request or the potential construction.

Mr. Rosenberger stated that this condition does not affect the request, the construction methods or the design of the project.

Rolfe stated that the applicant's statement that the location of the home on the lot is the hardship appears to be an accurate characterization. He asked for confirmation that neither the Kucera's, nor their relatives, were the original owners of the property, or that they had the building constructed.

The Kucera's confirmed these conditions.

Rolfe asked about the conditions of the property east of the home, stating that this area appears to be accessible by driving around the north end of the building.

Mr. Kucera stated that the utilities enter the home in this area, and this is the location of the air conditioner and electrical service equipment. There is a porch to the rear of the home, and the area immediately east of the porch and house is patio, trees and a small amount of yard.

Rolfe observed that the described conditions appear to present functional difficulties related to the site.

Mr. Rosenberger stated that the rear area of the lot is wet much of the year.

Carpenter asked about the space immediately east of the garage.

Mr. Kucera stated that the utilities enter in this area, it is adjacent to the laundry room, and the sump pump also discharges in this area.

There was discussion of the soil types in this area, and the density and size of trees on the site.

Scott observed that the subject lot is the only lot in this area of the plat that is nonconforming as to width.

Mr. Rosenberger stated that the architectural committee of the subdivision has granted conditional approval, subject to approval by the Township.

Lauderdale moved that the public hearing be closed. The motion was seconded by Scott, and unanimously approved.

Carpenter asked for input and direction from Attorney Rolfe.

Rolfe stated that it does not appear the narrowness, shallowness or topography of the lot contributes to a hardship. He stated that circumstances might be determined to limit the alternatives for adding a functional garage on this site. He added that Section 6.9(2) does

not appear to be a basis, noting that a three-car garage is not generally “a substantial property right in the zone”, even though it may be customary in this particular development. He also noted that based on the information provided the proposed lot coverage (7.5%) on the site is approximately 50% of the permissible coverage (15%).

Carpenter requested input as to the findings related to Section 6.9:

- Practical difficulty:

Lauderdale stated that he finds that the applicants did not build the home, and that several conditions limit the compliant locations on the site: the septic system (existing and reserve) west and south of home cannot be built on or driven over; the wooded areas of lot to the east; the sump pump discharge to the northwest of dwelling; and, the area directly east of the home, does not appear to be accessible. . These conditions leave the proposed location as the only alternative.

Scott expressed agreement with Lauderdale’s observations.

- Substantial detriment to adjoining property:

Scott stated that no detriment is caused by the proposal, based on the 35-foot setback of the dwelling to the north, and the support of the request by the property owners (Statement of “no objection” submitted with application signed by Peter and Karen Ansorge – Lot 27 / 7320 Stoney Creek Drive).

Lauderdale added that the elevation does not appear to be detrimental, and that the landscaping creates adequate separation and screening.

- Material impairment of intent of the ordinances:

Scott stated that the proposed setback would adequately control the extent of building within the site, in part, based on the extent of lot coverage (7.5%).

- Material impairment of health, safety and welfare:

Lauderdale stated that the location of the garage does not appear to impair health, safety and welfare based on the adequate width of adjacent of road, the garage is over 80 feet from the road right-of-way, and that the owners will be responsible for safety within the site.

- Exceptional circumstances that do not apply to property in the same zone 6.9(A)(1):

Lauderdale stated his observation that this home is one of the only houses within this development that is located off-center on the site, the placement is the angular in relationship the lot lines, the lot is unique within the plat as to lot width, and is deficient as to width in relation to the R-1 zone requirements.

- Condition is not so general or recurrent as to make a general change to ordinance reasonable, 6.9(A)(3):

Rolfe stated that for this request, this section suggests an evaluation of the ability of the ordinance to take into account the various unique conditions identified on this site. The ordinance would not anticipate this range of conditions, and on that basis, the section appears to apply.

Lauderdale moved to grant a variance as requested, consistent with the findings above relative to Sections 6.9(A), 6.9(A)(1) and 6.9(A)(3). The motion was seconded by Scott, and unanimously **APPROVED.**

PUBLIC COMMENT - none

Dean indicated his intention to submit a request for interpretation at the next meeting of the ZBA. The request will seek clarification of the definitions applicable to determination of “Max. Building or Structure (Roof) Height (Ft.)”.

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

Respectfully submitted,

Bruce Dean Zoning Administrator