

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
September 2, 2015**

The Ross Township Zoning Board of Appeals held its regular meeting on **September 2, 2015, at 5:30 p.m.** in the Ross Township Hall. Acting Chairperson Lauderdale called the meeting to order and noted those present.

Present: Jim Lauderdale, Acting Chairperson
 Ed Harvey
 Roger Schweitzer, Alternate

Absent: Dave Carpenter, Chairperson

Also present: Bert Gale, AGS – Township Zoning Administrator
 Rebecca Harvey – Township Planning Consultant
 Rob Thall – Township Attorney
 One (1) member of the public

APPROVAL OF AGENDA: On motion by Schweitzer, seconded by Harvey, the agenda was unanimously approved as presented.

APPOINTMENT OF CHAIR: On motion by Harvey, seconded by Schweitzer, Lauderdale was unanimously approved for appointment as Acting Chairperson.

APPROVAL OF MINUTES: The following correction was noted: Page 3, 7th paragraph – the last line should read . . . ‘given that the slope in that **area** already limits building opportunities . . . ‘ On motion by Harvey, seconded by Schweitzer, the minutes of **August 5, 2015** were unanimously approved as amended.

NEW BUSINESS:

- 1) **Application for Variance**
Christine Mueller
2685/2692 Wendel Drive
Property Tax I.D. #3904-08-375-281, #3904-08-375-271

Acting Chairperson Lauderdale stated that the next matter to come before the Board was the request by Christine Mueller for variance approval from Section 16.3 and Section 22.3, Zoning Ordinance to adjust the existing lot line between two adjacent nonconforming lots (2685/2692 Wendel Drive). The proposed lot line adjustment will reduce the nonconforming lot area and lot frontage/width of 2692 Wendel Drive and modify the nonconforming lot area and lot frontage/width of 2685 Wendel Drive. The subject properties requested for consideration are within the R-1 Low Density Residential District.

Gale explained that the applicant owns 2685 Wendel Drive and proposes to purchase a 7 ft strip of land from the adjacent lot (2692 Wendel Drive) to provide a 10 ft side setback for the existing building on the site. He noted that the side setback for 2692 Wendel Drive will remain in compliance with the setback requirement with the property line adjustment. He referenced the Sketch Plan submitted with the application.

Harvey noted that the Sketch Plan does not reflect an existing garage on the site of 2692 Wendell that appears to be very near the existing boundary between the two lots.

Christine Mueller was present on behalf of the application. She stated that she believes the garage referenced is actually on a lot separate from 2692 Wendel Drive that fronts Snyder Drive. Further, the side lot lines do not line up between the front and rear lots in the area which then give the appearance of building encroachment. Schweitzer noted that the proposed lot line adjustment would not pose a problem for the garage if it is not actually on 2692 Wendel Drive.

Harvey then noted that it appeared that the mechanical equipment in the side yard of 2685 Wendel Drive is partially on 2692 Wendel Drive.

Mueller agreed that the location of the common property line between the two lots was in question before she had a survey of the lot completed. She noted that once the survey was done she purchased the additional 7 ft from 2692 Wendel Drive to address the encroachment of the mechanical equipment and to provide additional area for parking on the lot. Mueller added that she was unaware that a variance and a lot split approval were required.

Harvey again expressed concern that the proposed lot line adjustment will cause nonconforming side yard setbacks on 2692 Wendel Drive.

Gale explained that the sliding-scale approach to setbacks set forth in Section 22.9 will apply to both properties as lawful nonconforming lots. He noted that a 5 ft side yard setback will be required.

In review of the Sketch Plan, it was confirmed that the building located on 2692 Wendel Drive is separated from the Mueller house by 16 ft . . resulting in a 13 ft setback from the side lot line. It was noted that the proposed lot split will result in a 6 ft side setback, in compliance with the 5 ft setback requirement.

Acting Chairperson Lauderdale referenced three letters of support received by area residents. The noted letters were then read into the record.

Attorney Thall reminded that in addition to the requested variance, the actual proposed lot split/combination will be subject to Township Board review/approval pursuant to the Subdivision Control Ordinance.

No further public comment was offered on the matter. The public comment portion of the public hearing was closed.

Acting Chairperson Lauderdale led the Board through a review of the variance criteria set forth in Section 23.8 A. The following findings were noted:

Per Section 23.8A.:

- Practical difficulty in carrying out the strict letter of the Zoning Ordinance: *(exceptional narrowness, shallowness or shape of the property; exceptional topographic conditions; other extraordinary situation of the property)*
 - The lots in question experience ‘exceptional narrowness’ . . contributing greatly to the situation presented.
- Self-created hardship: *(practical difficulty not created by the applicant or a predecessor owner in the applicant’s family):*
 - The location of the existing lot lines and the nonconforming building locations are not a condition created by the applicant.
- No substantial detriment to adjoining property:
 - The proposed lot split/combination will provide an adequate side yard setback for 2685 Wendel Drive and address an existing encroachment and parking problem.
 - The proposed lot split/combination will not reduce the side yard setback on 2692 Wendel Drive below the 5 ft setback requirement.
- Not materially impair the intent and purpose of the Zoning Ordinance:
 - The proposed lot split/combination will provide an adequate side yard setback for 2685 Wendel Drive and address an existing encroachment and parking problem.
 - The proposed lot split/combination will not reduce the side yard setback on 2692 Wendel Drive below the 5 ft setback requirement.
 - The proposed lot split/combination will not result in the creation of any new lots/building sites.
 - The proposed lot split/combination will not result in an increase in driveways.
- Not materially impair the public health, safety and welfare:

- The proposed lot split/combination does not constitute a material change in the density, use, building coverage, or lot configuration of the area.
- The proposed lot split/combination will improve the safety of the access and parking arrangement on 2685 Wendel Drive.
- Exceptional circumstances applying to the specific property that do not apply generally to other properties in the R-1 District:
 - Nonconforming lots around Gull Lake are a recurrent situation . . . but they are not a general circumstance within the R-1 District.
- Condition/situation of the property is not of a general or recurrent nature as to make reasonably practical a general regulation as part of the Zoning Ordinance:
 - Nonconforming lots around Gull Lake are a recurrent situation . . . but are not general to the Township as a whole.

It was reiterated that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Harvey then moved to grant variance approval so as to allow the proposed lot split/combination based upon the findings of the Board pursuant to the variance criteria set forth in Section 23.8 A., Zoning Ordinance and subject to the following:

- 1) Township Board approval of the proposed lot split/combination pursuant to the Subdivision Control Ordinance.
- 2) Confirmation that the proposed lot line adjustment will not create a setback violation on 2692 Wendel Drive.
- 3) Submission of a revised Sketch Plan with accurate building locations and setbacks on 2685 and 2692 Wendel Drive for administrative review/approval.

Schweitzer seconded the motion. The motion carried unanimously.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 6:11 p.m.

Respectfully Submitted,

Rebecca Harvey, AICP, PCP
Township Planning Consultant