

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
October 4, 2017**

The Ross Township Zoning Board of Appeals held its regular meeting on **October 4, 2017, at 5:30 p.m.** in the Ross Township Hall. Chairperson Carpenter called the meeting to order and noted those present.

Present: Dave Carpenter, Chairperson
 Jim DeKruyter
 Jim Lauderdale

Absent: None

Also present: Bert Gale, AGS – Township Zoning Administrator
 Kelly Largent, AGS – Township Zoning Administrator
 Rebecca Harvey – Township Planning Consultant
 Rob Thall – Township Attorney
 Two (2) members of the public

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

APPROVAL OF MINUTES: On motion by DeKruyter, seconded by Lauderdale, the minutes of **September 6, 2017** were unanimously approved as presented.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: No public comment on non-agenda items was offered.

NEW BUSINESS:

- 1) **Application for Variance**
Bernard and Nydia Roehr
1542 Burlington Drive
Property Tax I.D. #3904-08-390-120

Chairperson Carpenter stated that the next matter to come before the Board was the request by Bernard and Nydia Roehr for variance approval from the rear (street) setback and the maximum lot coverage requirements established by Section 22.9 Zoning Ordinance. The subject site is located at 1542 Burlington Drive and is within the R-1 Low Density Residential District.

Nydia Roehr was present on behalf of the application.

Gale gave an overview of the proposal, noting that the existing dwelling is a lawfully nonconforming building due to lot coverage and setbacks and the subject site is a lawfully nonconforming waterfront lot. He stated that the applicant proposes a 112.5 sq ft (5 ft x 22.2 ft) addition on the west side of the existing house which will constitute an expansion of a nonconforming building and will serve to increase the lot coverage and be located within the required rear setback area.

Gale explained the application of Section 22.9 to the subject site, indicating that the status of the site as a lawful nonconforming waterfront lot allows for a reduction in the rear (street) setback requirement (Section 22.9 A.2.b.) and an increase in the maximum lot coverage requirement (Section 22.9 B.) in direct proportion to the percentage of reduction of the nonconforming lot area dimensions from the required lot area dimensions. Specifically, the application of Section 22.9 allows for a 20 ft rear (street) setback and a 36.9% lot coverage. He noted that the project proposes a 10 ft rear (street) setback and 47.9% lot coverage, requiring variance approval from Section 22.9.

Gale confirmed that the existing house on the subject site is provided a rear (street) setback of 14.8 ft and the existing lot coverage is 44.32%.

Lauderdale advised that the Planning Commission considered the application at the September 25, 2017 meeting and granted special land use permit/site plan approval for the proposed expansion of a nonconforming building subject to 1) variance approval from the maximum lot coverage and rear setback standards by the Zoning Board of Appeals; and 2) the inclusion of eaves/gutters along the west side of the roof of the addition to prevent storm water runoff onto the property adjacent to the west.

Attorney Thall noted that the Planning Commission considered the entire building proposal (ie. the proposed reduction of the building encroachment on the eastern boundary) in review of the requested special land use permit to expand a nonconforming building. He stated that the ZBA will consider only the proposed rear setback and lot coverage in review of the requested dimensional variances.

In response to Board questions, Gale explained that three (3) building scenarios (Scenarios A, B, & C) had initially been presented to the Planning Commission and that Scenario C had ultimately received approval. He stated that Scenario C was not a part of the original ZBA application but that the site plan dated September 18, 2017 that included all three (3) scenarios was recently provided electronically to the ZBA and is available at the meeting in hard copy.

DeKruyter noted that the existing 'stone parking area' shown on the site plan is located within the road right-of-way. Attorney Thall stated that the referenced parking area is existing and is not currently under review.

Chairperson Carpenter referenced two (2) letters received from neighboring property owners in support of the requested variances.

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

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

- #1 Residential use of the subject property is proposed to continue and is permitted within the R-1 District.
- #2 The subject site is currently occupied as a lawful nonconforming lot. A denial of the requested variances will not prevent reasonable use of the property.
- #3 In determining substantial justice, a review of the surrounding area was conducted. The following was noted: the proposed rear setback of 10 ft is consistent with rear setbacks on adjacent and area lots; the proposed rear setback will not increase the existing rear setback nonconformity; the proposed lot coverage of 47.9% is consistent with the lot coverage patterns present in the Burlington neighborhood; the proposed addition is minimal and complies with the side setback requirement; the wood line along the west property line will mitigate impacts from the building addition. Reference was also made to the support expressed by the neighbors of the project site.
- #4 The situations preventing compliance are not related to any unique physical circumstances of the property but rather to the proposed location of the addition and ownership design objectives.
- #5 The proposed construction is at the discretion of the applicant and is a self-created hardship.
- #6 The intents of the rear (street) setback and lot coverage requirements were referenced and the following was noted: the existing rear building separation/setback situation on the site will not be decreased; the proposed building location will not negatively impact safety nor reduce the existing parking for the site; the proposed addition is small and will not negatively impact visual open space on the site consistent with lot coverage objectives;

It was also noted that the addition is entirely located on the west side of the site and that compliance with the side setback requirement; the presence of an existing wood line along the west boundary; and the storm water measures proposed along the west side of the addition further indicate consistency with the intent of the Ordinance.

It was stated that the above findings were based on the application documents presented (September 18, 2017 Site Plan/Scenario C) and the representations made by the applicant at the meeting.

Lauderdale then moved to grant variance approval from the rear (street) requirement and lot coverage requirement established by Section 22.9, Zoning Ordinance so as to allow the proposed construction based upon the findings of the Board pursuant to the variance criteria set forth in Section 23.8 A., Zoning Ordinance. DeKruyter 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