

**ZONING BOARD OF APPEALS
ROSS TOWNSHIP
June 2, 2021**

The Ross Township Zoning Board of Appeals held its regular meeting on **June 2, 2021, at 5:30 p.m.** at the Ross Township Hall. Chairperson Carpenter called the meeting to order and noted those present.

Present: Dave Carpenter, Chairperson
Jim Lauderdale
Jim DeKruyter

Absent: None

Also present: Bert Gale, AGS – Township Zoning Administrator
Rebecca Harvey, Township Planning Consultant
Rob Thall – Township Attorney

APPROVAL OF AGENDA: The agenda was unanimously approved as presented.

APPROVAL OF MINUTES: It was noted that the second sentence of paragraph 2 on page 2 should be revised to indicate the proposed removal of ‘the remnants of the previous deteriorated boathouse’ instead of ‘the deteriorating boathouse’. On motion by Lauderdale, seconded by DeKruyter, the minutes of **May 5, 2021** were unanimously approved as amended.

NEW BUSINESS:

- 1) Application for Variance
Dennis Bourdo
15494 E. Augusta Drive
Property Tax I.D. #3904-26-410-010

Chairperson Carpenter stated that the next matter to come before the Board was the request by Dennis Bourdo for variance approval from the waterway setback requirement established by Section 17.3 for the construction of a new home and pole barn. The subject site is located at 15494 E. Augusta Drive and is within the R-R Rural Residential District.

Chairperson Carpenter opened the public hearing.

Gale provided an overview of the request, explaining the applicant's proposal to construct a new home and pole building on the subject 4.7-acre parcel that is provided frontage on the Kalamazoo River.

He stated that Section 17.3 requires a waterfront setback of 50 ft or the average setback of the dwellings on each side of the lot, whichever is greater, and noted that the house adjacent to the southwest is provided a waterfront setback of 338 ft. Referencing the plot plan provided with the application, Gale explained that the applicant proposes waterfront setbacks of 247 ft (house) and 320 ft (pole barn), less than the required 338 ft.

Dennis Bourdo was present on behalf of the application. He stated that he had made an offer on the property in February contingent on the buildability of the parcel. At that time, he was advised that the setback requirement from the river was 50 ft. He has since learned that the waterway setback is actually the average setback of the adjacent parcels, which, in this case, is entirely dictated by the 338 ft setback of the property adjacent to the southwest. Bourdo explained that the presence of a utility pole and a large wooded area on the rear portion of the property is limiting the ability to comply with the 338 ft setback requirement. He expressed a desire to not engage in significant tree removal on the site.

DeKruyter requested clarification of the location requirements for an accessory building on a waterfront lot. Gale explained that the yard between the building and the waterway is considered the 'front yard' by Ordinance definition, limiting the placement of an accessory building on a waterfront lot to a side yard or the yard area between the house and the road.

In response to a Board question, Bourdo confirmed that there is currently no existing well or septic system on the site.

Lauderdale stated that the plot plan is not to scale and so does not accurately reflect his field visit observation that the proposed placement of the buildings would largely be in alignment with the house adjacent to the southwest.

Chuck Whitman, property owner adjacent to the southwest, stated that the proposed building locations do not block his view of the river and work well with the location of his house. He noted that he has no issue with the proposal.

Charles Bradley, nearby neighbor, voiced his support of the proposal.

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 The proposed residential use of the property is permitted within the R-R District.

- #2 Adequate area exists on the property to comply with the 338 ft waterway setback requirement; compliance would not prevent the applicant from securing the property for a permitted use.
- #3 In determining substantial justice, it was recognized that the proposed 247 ft and 320 ft waterway setbacks are similar to the 338 ft setback on the property adjacent to the southwest given the curvature of the river shoreline, which will result in a general alignment of buildings, and will not interfere with the view/sight lines from the lot adjacent to the southwest. Reference was also made to the support expressed by neighbors of the project site.
- #4 In consideration of unique physical circumstances, it was recognized that the curvature of the river shoreline impacts the relationship of abutting setbacks. It was further noted that the setback of the adjacent property is excessive in relation to the setback requirement and most waterway setbacks. The presence of the utility pole was also noted.
- #5 The proposal is at the discretion of the applicant and represents a self-created hardship.
- #6 The intent of the waterfront setback requirement was referenced and the following was noted:

- : The waterfront setback requirement is intended to address issues of waterfront/building separation, visibility/sight lines, consistency of building lines, and shoreline protection.

- : The proposed waterfront setbacks will exceed the 50 ft minimum setback requirement, providing intended separation and shoreline protection.

- : The development proposal demonstrates the protection of the visibility/sight lines of the property adjacent to the southwest.

- : Due to the curvature of the river shoreline, the proposed waterfront setbacks will achieve general alignment with the existing house adjacent to the southwest.

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

Lauderdale then moved to grant variance approval from the 338 ft waterfront setback requirement so as to allow the proposed waterfront setbacks of 247 ft (house) and 320 ft (pole barn), based upon the findings of the Board pursuant to variance criteria #1, #3, #4 and #6 set forth in Section 23.8 A., Zoning Ordinance. DeKruyter seconded the motion. The motion carried unanimously.

2) **Application for Appeal**
John and Teresa Carr
2878 Burlington Drive
Property Tax I.D. #3904-08-315-090

Chairperson Carpenter stated the applicants have requested consideration of their application be postponed to the July meeting. Lauderdale moved to postpone consideration of the request for appeal by John and Teresa Carr to the July 7, 2021 Zoning Board of Appeals meeting, as requested. DeKruyter seconded the motion. The motion carried unanimously.

PUBLIC COMMENTS ON NON-AGENDA ITEMS:

Don Lavender stated that he objects to the frequent use of 40th Street by heavy agricultural tanker trucks while abutting residential property owners are being assessed for the maintenance of the road. Chairperson Carpenter advised that such comments are more appropriately directed to the Township Board.

Lavender then requested clarification regarding what constitutes a ‘fence’. Lauderdale stated that he serves as the Chair of the Planning Commission and advised that information circulating on social media regarding fencing and trees in the Township is largely inaccurate and should not be referenced. He offered that the Planning Commission has been asked to review the Zoning Ordinance in consideration of recent issues raised regarding sight lines/viewsheds on waterfront lots.

Lavender then requested information regarding accessory buildings. Gale offered to assist with any questions.

No further public comment on non-agenda items was offered.

OTHER BUSINESS:

Chairperson Carpenter indicated there was no Other Business scheduled for Board consideration.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 6:10 p.m.

Respectfully Submitted,
Rebecca Harvey, AICP, PCP
Township Planning Consultant