

**PRAIRIEVILLE TOWNSHIP  
ZONING BOARD OF APPEALS**

**January 4, 2023**

**PRESENT:** Chairperson Dale Grimes, Jaci Dalke, Ted DeVries, Dan Jeska

**ABSENT:** Richard VanNiman

**ALSO PRESENT:** Rebecca Harvey, Township Planning Consultant

CALL TO ORDER

Chairperson Grimes called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

Mr. Jeska moved to approve the agenda as presented. Mr. DeVries seconded the motion. The motion carried unanimously.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of May 4, 2022. Ms. Dalke moved to approve the minutes as presented. Mr. DeVries seconded the motion. The motion carried, 3-0, Chairperson Grimes abstaining.

PUBLIC COMMENT CONCERNING NON-PUBLIC HEARING ITEMS

No public comment was offered on non-public hearing items.

PUBLIC HEARING ITEMS

*VARIANCE REQUEST - Sausaman*

The next matter to come before the Board was the request of Patricia and Gary Sausaman for variance approval to allow for the construction of an addition that fails to meet the waterfront and side setback requirements established by Section 4.24 – *Waterfront Lots* and Section 4.41 – *Schedule of Lot, Yard and*

*Area Requirements, Zoning Ordinance.* The subject property is located at 12506 Merlau Avenue and is within the R-2 District.

Chairperson Grimes opened the public hearing.

Patricia and Gary Sausaman were present on behalf of the application. They provided an overview of the request, noting the following:

- The subject site is a small (0.16 acres) and narrow (50 ft road/water frontage) waterfront lot.
- The existing single-family dwelling is provided a 5 ft setback from the side (east) property line and is a nonconforming building.
- No accessory building currently exists. The proposed accessory building reflected on the plot plan will require a special land use permit by the Planning Commission due to setback.
- The construction of a 10 ft x 17 ft (170 sq ft) addition on the waterfront (north) side of the dwelling is proposed . . with a 44 ft waterfront setback and a 5 ft setback from the side (east) property line.
- Variance approval from the 10 ft side setback requirement is requested to allow for a 5 ft setback from the east property line for the addition, similar to the existing dwelling.

In response to a question, Harvey confirmed that the applicant is only seeking variance approval from the side setback requirement. She explained that the initial request for variance approval from the waterfront setback requirement was determined not to be needed after the public hearing notice was prepared.

Chairperson Grimes questioned if the proposed addition could be shifted or reconfigured to comply with the 10 ft side setback requirement. Ms. Sausaman stated that to shift the addition west would interfere with the covered patio and leave a 'notch' out of the east building line, which would not have good aesthetics and would result in dead space that was not usable.

Mr. Jeska inquired as to the proposed use of the addition. Ms. Sausaman noted the addition would contain a bathroom for the master bedroom and a laundry room with an exterior door.

Chairperson Grimes and Mr. Jeska opined that it appears the proposed addition could be easily shifted west and centered on the dwelling without interfering with the patio or having a negative appearance.

Mr. Sausaman responded that shifting the addition west will hinder the ability for the proposed bathroom to serve the master bedroom located in the east corner of the house. He further noted that the brick exterior of the house makes extensive changes difficult.

Mr. Sausaman added that the adjacent neighbor is provided a 5-6 ft side setback and that he does not object to the proposal. He also confirmed that the proposed addition will not extend forward of the adjacent houses.

Chairperson Grimes expressed reservation about the proposed accessory building and the impact it could have on the ZBA's current findings regarding lot coverage and building configuration. He stated he would prefer to have the full picture of the proposed site development in considering the variance request for the addition. Mr. Sausaman advised that the plot plan reflects the size and location of the proposed accessory building and that he would be happy to answer questions on the proposed project.

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

The Board then proceeded with a review of the variance criteria set forth in Section 7.5. Specifically, the following findings with respect to the requested variance were noted:

#1 – The requested setback variance will not serve to 'permit the establishment of a use' which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a single-family dwelling and that a denial of the setback variance for the addition would not prevent reasonable use of the property. It was further noted that adequate area exists on the site to shift or reconfigure the proposed addition to comply with the 10 ft side setback requirement without a reduction in the size of the addition.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was noted that side setbacks on a few nearby properties are less than the required 10 ft . . . but it was also noted that there are properties in the area where similar setback variances have been denied.

#4 – There are no unique physical limitations on the site preventing compliance and the grade differential in the area is not unique to the subject site. Further, the existing location of the house is the only circumstance of the property guiding the proposed location of the addition and does not constitute an 'exceptional physical circumstance of the property'

#5 – The location and configuration of the proposed addition are at the discretion of the property owner and represent a self-created hardship.

#6 – The intent of the side setback requirement was referenced and the following noted:

: The existing 5 ft side setback on the lot adjacent to the east and the proposed 5 ft setback on the subject site will result in minimal building separation; limited accessibility; and raises safety and light/ventilation concerns.

: The proposed 5 ft setback represents an expansion of a nonconformity which is not desirable.

: Options for building expansion without an expansion of the setback nonconformity exist.

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

Mr. Jeska moved to deny variance approval from the 10 ft side setback requirement so as to allow a 5 ft setback from the side (east) property line for the proposed addition, based upon the findings of the Board on Variance Criteria #2, #3, #4, #5 and #6 set forth in Section 7.5, Zoning Ordinance. Ms. Dalke seconded the motion. The motion carried unanimously.

#### *VARIANCE REQUEST - Ziembra*

The next matter to come before the Board was the request of Baybridge Group, project contractor, representing Mark Ziembra, for variance approval to allow for the construction of an addition that fails to meet the waterfront and side setback requirements established by Section 4.24 – *Waterfront Lots* and Section 4.41 – *Schedule of Lot, Yard and Area Requirements*, Zoning Ordinance. The subject property is located at 12150 Gilmore Point Drive and is within the R-2 District.

Chairperson Grimes opened the public hearing.

Mark Ziembra was present on behalf of the application. He provided an overview of the request, noting the following:

- The subject property is currently occupied by a 1-story single-family dwelling.

- The existing single-family dwelling is provided a 42.5 ft waterfront setback; a 43.5 ft waterfront setback is required. The existing dwelling is a nonconforming building due to setback.
- The construction of an 1190 sq ft (full) second-story addition to the existing dwelling, with setbacks mirroring those of the existing dwelling, is proposed.
- Variance approval from the 43.5 ft waterfront setback requirement is requested to allow for a 42.5 ft waterfront setback for the proposed second-story addition.

In response to questions, Mr. Ziembra noted that the second-story is proposed to add bedrooms and a bathroom for family/guests. Dave Peterson, project contractor, explained that essentially the existing roof will be removed; the second floor added; and, a new roof installed. He confirmed that the second-story is proposed to have the same perimeter as the first floor, which will require a 1 ft variance from the waterfront setback requirement.

Ms. Harvey confirmed that the 43.5 ft waterfront setback requirement is based on the average setback of the dwellings on the adjacent lots. She further confirmed that the applicant is only seeking variance approval from the waterfront setback requirement and that variance approval from the side setback requirement was determined not to be needed after the public hearing notice was prepared.

Chairperson Grimes inquired regarding an existing deck that was recently reconstructed that is provided a 30 ft waterfront setback. Mr. Ziembra stated that only the floorboards were replaced. It was agreed that the status of the deck was a question for enforcement and not a matter to be considered by the ZBA at this time.

Chairperson Grimes inquired as to the overall building height with the second-story addition. Mr. Peterson noted that it will comply with the 35 ft height standard.

Lengthy discussion ensued regarding the Zoning Ordinance requirement for building height measurement.

James Parker expressed support for the project, noting its aesthetic value to Pine Lake.

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

The Board then proceeded with a review of the variance criteria set forth in Section 7.5. Specifically, the following findings with respect to the requested variance were noted:

#1 – The requested setback variance will not serve to ‘permit the establishment of a use’ which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a single-family dwelling and that a denial of the setback variance for the second-story addition would not prevent reasonable use of the property. It was further noted that the second-story addition could be reconfigured to comply with the 43.5 ft waterfront setback requirement with minimal reduction in the size of the addition.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was noted that waterfront setbacks on surrounding properties range from 35 ft – 50 ft, generally consistent with the proposed 42.5 ft setback. The support expressed by a neighboring property owner was also noted.

#4 – There are no unique physical limitations on the site preventing compliance. Further, the existing location of the house is the only circumstance of the property guiding the proposed location of the addition and does not constitute an ‘exceptional physical circumstance of the property’.

#5 – The size and configuration of the proposed addition are at the discretion of the property owner and represent a self-created hardship.

#6 – The intent of the waterfront setback requirement was referenced and the following noted:

: The proposed 42.5 ft waterfront setback exceeds the required minimum waterfront setback of 35 ft, suggesting waterfront/building separation and shoreline preservation objectives will be met.

: The situation/orientation of the subject site in relation to adjacent /nearby properties suggests visibility/sight lines and general building alignment will not be impacted by the reduced setback.

: The existing single-family dwelling is provided a 42.5 ft waterfront setback. The proposed second-story addition will not increase the nonconformity nor encroach into the required setback further than currently exists.

: All other setback requirements are proposed to be met.

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

Mr. DeVries moved to grant variance approval from the 43.5 ft waterfront setback requirement so as to allow a 42.5 ft waterfront setback for the proposed second-story addition, based upon the findings of the Board on Variance Criteria #1, #3, and #6 set forth in Section 7.5, Zoning Ordinance. Ms. Dalke seconded the motion. The motion carried unanimously.

### UNFINISHED BUSINESS

Chairperson Grimes stated that no 'Unfinished Business' was scheduled for Board consideration.

### NEW BUSINESS

#### *ELECTION OF CHAIRPERSON*

Chairperson Grimes stated that pursuant to the ZBA Bylaws, 'the Board shall select from its membership a Chair at the first regular meeting of each calendar year.'

Ms. Dalke then moved to nominate/elect Dale Grimes as the ZBA Chairperson. Mr. DeVries seconded the motion. The motion carried unanimously.

### *COMMUNICATIONS*

Chairperson Grimes advised that Dave Mitchell has stepped down from the Board and that Ted DeVries has been appointed to serve on the ZBA as a regular member instead of as an Alternate. It was noted that the Township Board is seeking to fill the two alternate positions on the Board.

Chairperson Grimes inquired about whether a zoning ordinance could effectively regulate the use of drones. Ms. Harvey noted that she would confer with Township Attorney Kaufman on the subject.

### ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 9:30 p.m.