

**MELROSE TOWNSHIP ZONING BOARD OF APPEALS MINUTES
MELROSE TOWNSHIP HALL**

MEETING OF NOVEMBER 30, 2022

I. Call to Order/Roll Call

A. Call to Order: Chair Lee called the meeting to order at 7:00 PM.

B. Members present: Errol Lee, David Beier, Mary Pat Goldich, Susan Gilmette (alternate).

C. Members absent: Bart Wangeman, Todd Reeves.

D. Staff present: Zoning Administrator Ken Lane.

II. Approval of Agenda

Motion by Member Beier, second by Member Gilmette, to approve the agenda as presented. The motion was approved unanimously.

III. Approval of Minutes

Member Goldich motioned to approve the July 22, 2022, draft meeting minutes as presented, second by Member Beier, the motion was approved unanimously.

IV. Scheduled Public Hearing

1. ZBA Case #6-2022, expansion of a nonconforming structure at 02009 North Shore Drive, Walloon Lake, Dane Christy.

Chair Lee introduced ZBA Case #6-2022. Chair Lee opened the public hearing and provided an overview of the Zoning Board of Appeals public hearing procedure as follows: (1) Township staff comment; (2) petitioner presentation; (3) comments from the public, first from those in favor, second from those opposed; (4) close of the public hearing; (5) Zoning Board of Appeals deliberation; and (6) Zoning Board of Appeals decision. Chair Lee added that a decision by the Zoning Board of Appeals is only appealable to the Circuit Court within 30 days of the decision.

Chair Lee asked Zoning Administrator Lane to provide his comments.

Zoning Administrator Lane stated that he had received one email in support of ZBA Case #6-2022, and that copies of the email were provided to each member of the Zoning Board of Appeals.

Zoning Administrator Lane stated that this case was a request submitted by Dane Christy to expand a nonconforming use by adding an 80 sq ft sundeck over the

existing front porch. Zoning Administrator Lane stated that the property was located in the R-2 Single Family Residential District and was a corner lot, with frontage along Lake Street and North Shore Drive. Zoning Administrator Lane provided that the existing residential structure encroaches into the front yard area along North Shore Drive and into the yard area along Lake Street. Zoning Administrator Lane added that these encroachments are the reason the structure is nonconforming. Zoning Administrator Lane added that the property has been used continuously for residential purposes, including prior to its R-2 District designation, making it a legal pre-existing nonconforming use.

Zoning Administrator Lane stated that the public hearing was properly noticed in accordance with the Township Zoning Ordinance and state law. Zoning Administrator Lane added that documentation to that effect was included in the meeting packet.

Zoning Administrator Lane referred to his analysis memo that was included in the Zoning Board of Appeals meeting packets. Zoning Administrator Lane stated that Section 9.6 of the Township Zoning Ordinance was the relevant section for the request, and it allowed the Zoning Board of Appeals to approve the expansion of a nonconforming use if certain criteria are met. Zoning Administrator Lane stated that he had prepared draft findings of fact for the Zoning Board of Appeals to consider during its deliberations, and that the draft findings could be used, modified, or discarded by the Zoning Board of Appeals. Zoning Administrator Lane focused on findings 5 & 6 as provided in his analysis memo stating that these findings included his opinion relating to the criteria in Section 9.6 of the Zoning Ordinance. Zoning Administrator Lane noted that the proposed sundeck will not increase, or decrease, the structures existing nonconformities. Zoning Administrator Lane added that draft motions were included in his analysis memo, a motion to approve, to deny, or to approve with conditions.

Chair Lee asked the petitioners if they would like to address the Zoning Board of Appeals. Dane Christy stated that he and his wife Julie owned the residence, and that the intent was to add a sundeck off the upstairs bedroom and replace the existing 6' window with French doors or a doorwall. Mr. Christy referred to the photographs that were provided with his application noting that: (1) the first photo showed the home in its current state; (2) the second photo had the proposed sundeck depicted in red; and (3) the third photo showed the neighboring property which had an identical sundeck. Mr. Christy added that the guard rails of the proposed sundeck will be white to match the existing porch below. Mr. Christy stated that the sundeck will not extend beyond the footprint of the house.

Chair Lee stated that the modification to the window along with the proposed sundeck should be included in any approval from the Zoning Board of Appeals.

Member Goldich stated that the window replacement was included in the petitioners' application to the Zoning Board of Appeals.

Chair Lee asked the Zoning Board of Appeals if they had any questions for the petitioners.

Member Goldich asked for the height of the guard rails on the porch.

Mr. Christy replied that he was unsure of the height of the guard rails on the porch, but the guard rails on the proposed sundeck would be 36" which is compliant with building codes.

Chair Lee asked if there were any further questions. Hearing none, Chair Lee asked if there were any public comments in favor or in opposition to the request. There was no public in attendance. Chair Lee mentioned that an email in support had been received from Marilyn Taylor.

Chair Lee closed the public hearing and moved the Zoning Board of Appeals into its deliberations.

Member Beier stated that the request met the criteria under the Zoning Ordinance, and he was in support of its approval.

Chair Lee stated that the addition was not an expansion of a nonconforming use, rather it was neutral in that the proposed sundeck will not increase or decrease the existing nonconformities. Chair Lee added that it was appropriate for the Zoning Board of Appeals to consider and decide on this request because it was a nonconforming structure.

Member Gilmette agreed that the proposed sundeck will not increase or decrease the existing nonconformities.

Chair Lee asked for further discussion. Hearing none, he suggested that the Zoning Board of Appeals go through its Findings of Fact under Section 9.6 in relation to this proposed addition to a pre-existing nonconforming use.

Chair Lee asked the Zoning Board of Appeals if they agreed with the Findings of Fact as provided in the analysis memo from Zoning Administrator Lane.

Member Beier stated that he agreed with the Findings of Fact and that the proposed addition would not be contrary to the spirit and intent of the Township Zoning Ordinance.

By consensus, the Zoning Board of Appeals agreed with the Findings of Fact as follows:

1. The address of the nonconforming residential structure is 02009 North Shore Drive (ID #15-010-720-017-00).

2. The property is a corner lot located in the R-2 Single Family Residential District.

3. The residential structure encroaches into the front and side yard setback areas; however, it is a legal nonconforming structure because it existed prior to the property being zoned R-2.

4. The property owner is requesting to add to the nonconforming use by constructing an 80 sq ft sundeck and by replacing a 6' window over the existing front porch.

5. The proposed expansion to the nonconforming structure will not be substantially detrimental to the surrounding neighborhood, as evidenced by the photographs provided by the applicant showing that neighboring properties are similar in size to the subject property and have similar structures architecturally with similar degrees of nonconformity. No opposing written comments have been received. The proposed sundeck will not go beyond the current projections of the existing house, and it will not increase existing nonconformities.

6. The proposed expansion will not be contrary to the spirit and intent of the Zoning Ordinance. The purpose of the R-2 District in part is to provide a stable and sound residential environment. Absent the Zoning Board of Appeals' approval, the property owner will be unable to expand, modernize and use the property in a manner consistent with the architectural and historical context of neighboring property owners.

Due to the findings of fact as provided, Member Beier moved to approve Case #6-2022, a request by Dane Christy to expand a nonconforming use to permit the construction of an 80 sq ft sundeck at 02009 North Shore Drive, Tax ID 15-010-720-017-00, as depicted in the application and supporting documents submitted on September 28, 2022, because the standards of the Melrose Township Zoning Ordinance have been satisfied.

The motion was seconded by Member Gilmette and unanimously approved.

V. Other Matters to be Reviewed by the ZBA

Chair Lee suggested that the Zoning Board of Appeals application form should be modified to require that all corners of a subject property be visibly marked/staked to facilitate review by members. Chair Lee added that on a previous case, it was determined that an addition was proposed to be constructed across a property line. Chair Lee stated that property lines are sometimes difficult to determine, so having visible identification markers becomes very important.

Members Goldich and Beier agreed.

Chair Lee motioned that the Zoning Board of Appeals application form be modified to require that all corners of a subject property be visibly marked/staked. The motion was seconded by Member Beier and approved unanimously.

VI. Communications and Correspondence received

Email from Marilyn Taylor in support of Case #6-2022.

VII. Zoning Board of Appeals Members

Member Gilmette suggested that if Bunny Marquardt was no longer going to serve as recording secretary, the Township should provide her with a written thank you.

Member Goldich agreed. Chair Lee will follow up with the Township Supervisor to determine if Ms. Marquardt would no longer serve as Recording Secretary.

Chair Lee offered that he would serve as acting Zoning Board of Appeals secretary due to Member Reeves absence so that the previous meeting minutes can be officially approved.

VIII. Report of the Planning Commission Representative Bart Wangeman

Member Wangeman was absent. Nothing to report.

IX. Citizen Comments on Items Not Subject to a Hearing at this Meeting

None.

X. Next Meeting Scheduled

Monday, December 5, 2022, at 5:00 PM.

XI. Adjournment

At 7:32 PM.

Prepared by:

APPROVED

Ken Lane, Zoning Administrator/Recording Sec.

Zoning Board of Appeals Approval by:

Todd Reeves, Secretary