

APPROVED

**MELROSE TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
August 20, 2013**

Call to Order: The meeting was called to order at 6:00pm by Ch. Errol Lee

Roll Call: Errol Lee, Phyllis Cotanche, Todd Reeves, Wayne Ramsey, Bunny Marquardt, Randy Frykberg, Zoning Administrator. Bart Wangeman was excused and David Beier was unexcused.

Guests: John and Cyndi Nelson, Todd Wright

Approval of Agenda: Ch. Lee asked to amend the agenda for the Election of Officers and discussion of the Rules of Procedures. Todd moved to add them to New Business, #C. Wayne seconded. All agreed.

Unfinished Business: Consideration of change in drainage control from gutters to French Drains for the Trixler residence at 01237 South Shore. Randy explained that neighbors on both sides have problems with water runoff. The original Variance was given with the addition of gutters to control the water. They are asking for a new plan using pipe with drain stone as there are problems with roof mounted gutters in winter with breakage and clean out. Randy had met with Todd Wright, the contractor who pointed out that both neighbors drain into the Trixler property. Todd stated they have been concerned for 2 years with drainage. Both Shield's and Schach's property drain into the Trixler property and zero runoff comes from the Trixler property. The Variance issued states "gutters will be installed." Todd quoted several definitions of gutters that included ground drains, not just roof drains. Randy stated the drains installed at Trixlers not only meets the definition, but works better. The Board members agreed. Errol asked if this is an approved gutter system and answer was Yes. Todd asked if this new drain was directly under the roof line and answer was Yes. It was decided that the applicant has met the Spirit and Intent of the Ordinance and ALL AGREED.

New Business: **Case # ZBA 1-13, Cindy Nelson request to expand a non-conforming shed by replacing the flat roof with a peaked roof and new siding on the shed to match the new house at 01093 Sweet pea Lane (ID# 15-010-017-064-00)**

Randy stated that years ago a shed was constructed on the waterfront and now there is a new house and the shed has a flat roof and the applicant would like to add a peaked roof and change the pitch.

Cindy Nelson has applied for a lake-front setback variance to replace the flat roof on a 15'2" x 13'9.5" shed with a peaked roof and to re-side the structure to match the new

house. The shed footprint will not be increased and the intrusion into the waterfront setback will be decreased due to the smaller overhang being built. The shed was built in a legal manner prior to zoning, but now is non-conforming due to its location in the lakefront setback. Therefore, according to the Zoning Ordinance, a Public Hearing and approval by the Zoning Board of Appeals is needed in order to allow the modifications to the shed.

Todd asked if the project will result in a bigger overhang and Randy stated no it will be less. Errol stated we needed to have a dimensional drawing on file including the overhang.

Errol opened the Public Hearing and asked to hear from the Applicant. Cindy Nelson, the applicant, stated this would enhance the appearance and the Shed would have cedar shakes and a new sloped roof to match the new home being built. The height would not block the view and the pitch would be 12/10.

The General Facts are:

1. The property is in the R-1 Zoning District.
2. R-1 Setback and size requirements are 50' front (water), 10' side (because of the narrow width of the lot, rather than the 15' side yard setback for lots 100' wide or greater), 35' rear, 100' width and 20,000 square foot minimum area.
3. The 15'2"x 13'9.5" shed is 30' from the lakeshore and 8.5' from the west side property line.
4. The lot is non-conforming because the area is approximately only 14,300 square feet and only 55' in width.
5. The proposal is to replace the flat roof on the shed with a peaked roof and to re-side the structure to match the new house. There be a decrease in the footprint (due to a shorter overhang) but the usable space will remain the same.
6. The new house, now under construction, is conforming and replaced a non-conforming house that was less than 2 feet from the west side lot line.

Randy stated there was one written comment by Richard Fox of 01073 Sweet Pea Lane in support of the Variance Request. There were no Public Comments. Ch. Lee closed the Public Hearing and read the following.

Section 9.6 - Expansion of Nonconforming Use

"The Zoning Board of Appeals may, upon application and notification to the property owners and occupants, as required by Section 12.3, permit expansion of a pre-existing nonconforming use, provided such expansion shall not be substantially detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance."

1. New roof and siding will not be substantially detrimental to the surrounding neighborhood. ALL AGREED

- a. The Board finds that a shed that is 30' from the shore of Walloon Lake exists on the property. ALL AGREED
 - b. The Board finds that a new house is under construction on the property. ALL AGREED
 - c. The Board finds that the replacement of the flat roof with a peaked roof will not increase the footprint of the 15'2"X13"9.5" structure but will in fact decrease it.
 - d. The Board finds that the replacement of the flat roof with a peaked roof will improve the appearance of the property. ALL AGREED
 - e. The Board, therefore, finds the expansion will not be substantially detrimental to the surrounding neighborhood. ALL AGREED
2. The new roof and siding on the shed to match the new house will not be contrary to the spirit and intent of the zoning ordinance. ALL AGREED
 - a. The Board hereby incorporates by reference its findings of fact contained in paragraphs 1.a through 1.e. above. ALL AGREED
 - b. The Board finds that Section 6.0 A) of the zoning ordinance specifies the purpose of the R-1 Zoning District, which provision is hereby incorporated herein by reference. ALL AGREED
 - c. The Board finds that Section 1.0 of the zoning ordinance specifies the purpose of the zoning ordinance, which provision is hereby incorporated herein by reference. ALL AGREED
 - d. The Board finds that allowing the proposed new siding and peaked roof does "maintain social and economic stability, property values and general character and trend of Melrose Township development". ALL AGREED
 - e. The Board, therefore, finds the proposed new siding and peaked roof will not be contrary to the spirit and intent of the zoning ordinance. ALL AGREED
 3. Based on the above findings of fact, the Board finds the standards for the expansion of the Applicant's nonconforming shed have been met. ALL AGREED

Section 12.4 C Variance Criteria:

"The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from dimensional requirements. It shall be found by the Zoning Board of Appeals that any variance granted:"

1. ***Will not be contrary to the public interest or to the spirit and intent of the Ordinance.*** The proposed new siding and peaked roof (to match the new house) will not expand the footprint (in fact will slightly decrease the footprint due to the shorter overhang) or the usable space of the shed.

Therefore, the Board finds that the proposed work will not be contrary to the public interest or to the spirit and intent of the Ordinance. ALL AGREED

2. ***Shall not permit the establishment within the zoning district of any use that is not permitted by right within the district.*** Residential accessory uses, including sheds, are an allowed use in the R-1 District. Therefore, the Board finds that the addition meets this requirement. ALL AGREED
3. ***Will not cause any adverse effect to property in the vicinity or in the Zoning District or the Township*** The Board finds that the new siding and peaked roof (to match the new house), without increasing the footprint, will not cause any adverse effect. ALL AGREED
4. ***Relates only to property under control of the applicant?*** ALL AGREED
5. ***Affects only property subject to exceptionally or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity and have not resulted from any act of the applicant?*** The Board finds that the lot is pre-existing and is non-conforming due to small size. The shed was legal when it was constructed. Age has deteriorated the roof. The new siding and peaked roof will improve the appearance of the building without expanding the footprint or usable space. Therefore, the Board finds that the addition will meet this requirement. ALL AGREED

FINDINGS: The Board ALL AGREED to the following:

1. The property, identified by Tax Code 15-010-017-064-00, is in the R-1 Zoning District.
2. Setback requirements for this parcel are 50' from the water, 35' rear, and 10' sides.
3. The present shed is 30' from the shoreline.
4. The proposed new siding and peaked roof should improve the appearance of the building without expanding the footprint or useable space.
5. The proposed peaked roof and siding meet the above 2 criteria in Section 9.6 for expansion of a non-conforming structure
6. The peaked roof and siding meet the above 5 criteria in Section 12.4 C for a variance.
7. Permitting the Expansion of a Nonconforming Structure would observe the Spirit of the Ordinance and provide for substantial justice.

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“Due to the findings of fact as stated above, Todd Reeves moved to approve Cynthia Nelson’s ZBA application dated July 23, 2013 to add

new siding and a peaked roof on an 15'2" x 13'9.5" shed. This will not change the useable space and will decrease the shed footprint by decreasing the overhang. The property is located at 01093 Sweet Pea Lane (Property ID# 15-010-017-064-00). Dimensional drawings will be provided prior to issuing a Zoning Permit. Motion seconded by Phyllis Cotanche. ALL AYES MOTION PASSED.

Errol moved the Discussion of the Rules of Procedure and Election of Officers to the next meeting. The meeting was scheduled to next Wednesday, August 28, 2013 at 6PM.

Meeting adjourned at 7:15PM

Respectfully submitted by Bunny Marquardt, Recording Secretary