



ROBINSON TOWNSHIP ZONING BOARD OF APPEALS

Ottawa County, Michigan

December 7, 2023

The special meeting of the Robinson Township Zoning Board of Appeals was called to order at 7:00 P.M. at the Robinson Township Hall.

Present:

Rich Saddler
Doug Putnam
Bill Maschewske
John Wood
Brianna Fowler

Absent:

None

Also present were Township Supervisor Frank Johnson, Zoning Administrator Julie Lovelace, applicants Otto and Mary Herrera, and Blake Herrera. The attendance sheet is attached.

Approval of Agenda

A motion was made by Brianna Fowler and seconded by Doug Putnam to approve the agenda as written.

The motion carried unanimously.

Approval of Minutes

A motion was made by Doug Putnam and seconded by Bill Maschewske to approve as written the Zoning Board of Appeals minutes from the September 20, 2023 meeting.

The motion carried unanimously.

Public Hearing

A dimensional Variance Request was submitted by Otto and Mary Herrera for 11888 Barnard St. to construct a 14 foot by 22-foot deck in line with the front wall of the dwelling that does not meet the minimum required front yard setback on a corner lot. Variance is requested from Section 30.3, "Tables of Principal and Accessory Building Regulations".

The Rules of Procedure were reviewed by Chairperson Saddler and the public hearing was declared open.

A presentation of the Variance Request was given by Mr. Otto Herrera. He stated the existing deck was built incorrectly and without a permit by a previous owner of the property and the deck is now a hazard. The existing grade and the deck slope towards the house and present drainage issues. The existing deck also has mold, is getting rotten and is not safe.

Brianna Fowler – Is there a sliding door to the deck?

Otto Herrera – No. The access is from a service door at the rear of the garage.

Bill Maschewske – Is the “existing deck” still there and what size is it? It could not be seen from the road because of the existing fence.

Blake Herrera – The old deck is still there and is approximately the size of the proposed deck.

Chairperson Saddler – Will the existing fence be altered?

Otto Herrera – No. The fence will remain and the new deck will be no further North than the house. They want to remove the existing deck and regrade the soil underneath so it slopes away from the house. The existing deck is already 14 ft. by 22 ft. and the new deck will be the same size.

Doug Putnam – Inquired about requirements for corner lots.

Bill Maschewske – Noted that in addition to the references included in the Zoning Administrators Memorandum, Section 4.22 of the Zoning Ordinance was also applicable which states that a Corner Lot must meet the Required Front Yard requirements on both streets.

Zoning Administrator Lovelace – The proposed deck will not increase the non-conformity. While it violates the Front Yard Requirement on the North side of the house, the deck will not be further North than the existing house.

Supervisor Johnson – Inquired about Front Yard requirements and how the word “Street” is involved.

Bill Maschewske – Explained that the word “Street” is used to identify two sides of a corner lot that must meet the Front Yard Requirement for setbacks. Reference Section 4.22 of the Zoning Ordinance.

Chairperson Saddler – What was the Front Yard setback requirement for lots over 100 years old and combined prior to 1993.

Bill Maschewske – The Front Yard Setback would have been 40 ft. under the 1949 Zoning Ordinance.

Supervisor Johnson -- Does everyone with non-conforming dwellings in the Village of Robinson need to get a variance?

Bill Maschewske -- Described the compromise reached between the Eastwood Homes and the Township Board with Ray Masko as Supervisor regarding combining two lots into one prior to development in the Village of Robinson. It is unknown at this time if this agreement was documented, however, it appears that more than just the Herrera dwelling was built at that time with less than 40 ft. of Front Yard Setback. How these non-conforming setbacks were approved is unknown but should be researched for future reference.

Zoning Administrator Lovelace -- Noted the relief valve type exceptions to setback requirements in the Zoning Ordinance, Section 4.24, for Existing Non-standard Lots.

Chairperson Saddler -- If someone wants to violate the yard requirements, then they need a variance.

Bill Maschewske -- Considering the possibility of another similar issue regarding Yard Requirements in the Village of Robinson, it would be advisable to research if documentation exists for the agreement reached with the developer for setbacks of dwellings and accessory buildings. It was suggested to search both Planning Commission and Township Board minutes from 1990 to 1993.

There were no more comments or questions from the Planning Commission, the applicants, or the public.

A motion was made by Brianna Fowler and seconded by John Wood to close the public hearing at 7:40 PM.

The motion carried unanimously.

At this time, the Standards for Variances in Section 40.6(A) of the Zoning Ordinance were reviewed for a Dimensional Variance. Note the Zoning Ordinance requires that all conditions be met in order to grant a Variance. The numbers below refer to the numbered Sections in the Zoning Ordinance. The text in *Italics* are the comments of the Zoning Administrator in her Memorandum dated November 28, 2023. The complete Memorandum is attached.

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.

Response: Parts of the subject lot were believed to have been created in approximately 1870 as part of the plat for the Village of Robinson. Prior to the adoption of the current Zoning Ordinance, a developer bought many of the lots comprising the Village of Robinson wished to develop these lots residentially. These lots were generally 50 ft. in width and considered inadequately sized for the construction of a modern home by the

Township. Under Supervisor Masko and the Township Board at the time, an agreement was reached with the developer in which the developer would combine two lots into one to make a less non-conforming lot even though each 50 ft. lot was a legal non-conforming lot since they were not created in violation of any ordinances. (The first Zoning Ordinance in Robinson Township was adopted in 1949.)

In addition to the above history, the Zoning Board of Appeals agrees with the findings of the Zoning Administrator below in italics and unanimously finds the condition is met.

While the lots within the Village of Robinson are zoned Rural Residential, they nowhere near meet the minimum lot size of 82,500 square feet. Additionally, this lot is a corner lot, which adds the additional burden of meeting the front yard setbacks to both the north and west lot lines. Staff finds the size of the lot may be an exceptional circumstance. If the ZBA agrees, this standard may be met.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

Response: The Zoning Board of Appeals unanimously agrees with the findings of the Zoning Administrator in italics below and finds the condition is met.

In this case, the existing dwelling sits approximately 32 feet from the north lot line, which makes the house itself nonconforming. Staff finds that most houses have a deck, or at least steps off the back of their house for egress. The Applicant wishes to align the deck with the existing north wall of the dwelling, which would not expand the nonconformity northward. The proposed deck would meet the rear setback of 25 feet to the east lot line. If the ZBA agrees that the proposed deck would preserve a substantial property right, this standard may be met.

3. Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

Response: The Zoning Board of Appeals agrees with the findings of the Zoning Administrator below in italics in addition to the findings that there are other houses in the area with similar non-conforming setbacks and there was no public opposition. The Zoning Board of Appeals unanimously finds this condition met.
The only adjacent property to be impacted would be the lot to the east. There does not appear to be a substantial detriment to the east lot, as the proposed deck meets the required east setback. If the ZBA agrees, and pending public comment, this standard may be met.

4. The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.

Response: Based upon the memory of the Zoning Board of Appeals members, there have not been previous similar Variance requests in the Village of Robinson on legal non-standard lots. In addition, the Zoning Board of Appeals agrees with the findings of the Zoning Administrator in italics below.

Staff is unaware of any recurring applications to the ZBA from lot owners within the Village of Robinson. As such, this standard may be met.

5. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

Response: The dwelling has existed since 1993. The current resident purchased the property in June of 2019. The lot existed as two smaller lots that pre-dated any Zoning Ordinance in the Township or lot size requirements. The Zoning Board of Appeals unanimously finds this condition met.

Having reviewed Section 40.6(A), Standards for a Dimensional Variance, and finding that all five conditions have been met, the Chairperson requested a motion.

A motion was made by Doug Putnam and seconded by John Wood to approve the Dimensional Variance Request of Otto and Mary Herrera at 11888 Barnard St. to remove an existing deck and construct a new deck no further north than the North building line and existing fence. The new deck would be 14 ft. by 22 ft. and be in line with the North front wall of the dwelling which does not meet the minimum required front yard setback on a corner lot. The new deck would meet the rear yard setback. Approval is based upon documentation from the applicant and the Zoning Administrator, both in the application and recorded during the meeting, the Memorandum from the Zoning Administrator dated November 28, 2023, and the findings of the Zoning Board of Appeals recorded in these minutes.

A roll call vote was taken.

John Wood – Yes
Doug Putnam – Yes
Bill Maschewske – Yes
Rich Saddler – Yes
Briana Fowler – Yes

The motion was approved unanimously.

Any and All Other Business That May Come Before the Board – None

Adjournment

A motion was made by Brianna Fowler and seconded by John Wood to adjourn the Zoning Board of Appeals meeting at 8:27 PM.

The motion carried unanimously.

Respectfully submitted,

Bill Maschewske
Secretary, Robinson Township
Zoning Board of Appeals

Attachments:

Zoning Administrator Memorandum Regarding Dimensional Variance Application – 11888 Barnard Street.

Sign-In Sheet for Zoning Board of Appeals December 7, 2023