

FAIRVIEW TOWNSHIP ZONING HEARING BOARD

Fairview Township Municipal Building
7471 McCray Road, Fairview, Pennsylvania 16417
Tel: 474-5942, Fax: 474-1199

APPEAL NO. 3

July 3, 2013, 7:00 PM

Owners: Michael and Rosemarie Nestor

Property Subject to Appeal:

6002 Bogey Way, Erie, PA 16505

Index No: (21) 39-49-2

FINDINGS OF FACT:

1. The public hearing on July 2, 2013, was called to order at 7:00 P.M. by Acting Chairman Brian McGrain. Others present at the hearing were as follows: Board Members Keith Farnham and David Biletnikoff, Solicitor, Edward Betza, Fairview Township Supervisor Peter Kraus, Secretary Judy Schroeck, Fairview Township Planning and Zoning Administrator James Cardman, Assistant Zoning Officer Nathan Miller and Court Stenographer Sonya Hoffman.

Introductions were given and hearing procedures were reviewed. The oath was administered to those wishing to give testimony.

2. The secretary verified the hearing had been advertised with legal notice in the Erie Times News on June 18 and June 25, 2013. A copy of the legal notice was posted on the property on June 18, 2013, on the Township bulletin board and web site on June 13, 2013 and mailed to (12) twelve area residents within a 200 foot radius. The summary for Appeal No. 3 was read requesting approval for a side and rear yard variance to construct a 14 by 15 square foot kitchen addition in an R-2 Suburban Residential District. The owner filed an appeal (No. 3) after being denied by the Zoning Officer for the above addition. (A copy of the owner's building permit application and appeal application is attached and incorporated by reference as Exhibit "A") (A copy of Section 701 C 5 a, of the Ordinance is attached and incorporated by references Exhibit "B").

3. Edward Betza, Solicitor for the Zoning Hearing Board, explained that the request is for a side and rear yard variance. It was initially denied by the zoning officer pursuant to Section 701- side and rear yard setbacks, because it exceeded the Township's rear yard setback requirement of 40 feet and side yard requirement of 10 feet minimum one side. The Board has the power to grant/deny exceptions pursuant to Sections 701 and 1103 of the Township's Zoning Ordinance.

4. Jim Cardman, Zoning Administrator, clarified that the side yard setback of 10 feet minimum one side, 24 feet total does not apply to this appeal as the house is turned on this curved lot and the side yard is the rear yard. He stated the appeal is for a rear yard variance only.

5. Michael Nestor, owner of the property at 6002 Bogey Way, testified he already has a deck in the location of the proposed kitchen addition and that the addition will be in the same location and not be any closer to the property boundary line. He also stated that he has

architectural plans drawn for the proposed addition.

6. Janice Baumbauch, 1301 Springlake Drive, testified that Mr. Nestor's deck is fifteen feet from her property line and that he has a cement pad up to the boundary line. She stated that she currently has a renovation going on at her property and is concerned how Mr. Nestor's contractor will get his equipment to the rear of his house.

7. James Cardman testified that a cement pad may legally go up to the boundary line without a zoning inspection and that his existing deck is an established non-conforming use that is approximately twenty-one (21) feet from the rear property line. Jim also testified that the addition will not get any closer to the rear boundary than the current deck.

8. Jerry Cairns, 6010 Bogey Way, spoke in favor of the appeal. He testified that he is a past president of the Lakeshore Association and that the Nestors have been great neighbors.

10. Mrs. Baumbach went on record as being against the variance.

11. Brian McGrain, chairman, clarified with Mr. Nestor, that there will be an outside light on the rear of the house and that the construction of the addition will blend with the rest of the house. He also verified that Mr. Nestor has a hardship with the size of his lot and the location of his house on the lot

CONCLUSIONS OF LAW:

1. The application was properly brought before the Board for consideration with proper legal advertisement and posting of the property.

2. The Board considered all of the facts and was of the opinion that the rear yard variance could be granted.

Section 701

LOT AND AREA REQUIREMENTS

C. 5 a Minimum rear yard – Principal use - 40 feet

A motion to approve the rear yard variance was made by Keith Farnham and seconded by David Biletnikoff. All in favor.

Meeting adjourned at 7:25 PM.

Respectfully submitted,

Judy Schroeck, Secretary ZHB