

**BROOKS TOWNSHIP  
ZONING BOARD OF APPEALS HEARING**

William Service  
Parcel # 62-19-06-151-017  
5036 S. Coral Drive  
October 2, 2015  
APPROVED

**MEMBERS PRESENT:** Frank Janusz, Mark Pitzer, Dave Warren, Kim Roehrig  
**MEMBERS ABSENT:** None

**APPLICANT:** William Service

Chairman Janusz called the meeting to order at 7:00 p.m. This meeting was properly posted and a quorum of the Brooks Township Zoning Board of Appeals was present. These minutes are not a transcription and comments have been summarized for brevity and clarity.

**APPROVAL OF AGENDA:**

**Moved** by Warren, **Seconded** by Pitzer to approve the agenda as presented.

Ayes – All

Nays – None

Motion Carried

**STATE THE REASON OF HEARING:**

Chairman Janusz stated the reason for this hearing is William Service is requesting a variance to reduce the size of the setbacks on his property, parcel # 62-19-06-151-017.

**ADJOINING PROPERTY OWNERS NOTIFICATION:**

The property owners were notified by letter sent on September 21, 2015 and notice published in the Times Indicator on September 16, 2015.

**RULES OF PROCEDURE:**

Chairman Janusz stated that all questions or comments should be addressed to him.

He then explained the order of procedure for the hearing.

**ZONING ADMINISTRATOR COMMENTS:**

Selzer supplied the ZBA with a packet with his comments and drawings and his response to all six standards is in the packet.

Mr. Service's original request was for construction of a garage in 2014. At the time of the permit there was discussion about a change of use but there were no specifics. Selzer made a site visit on July 29, 2015 and it appeared to be more than the garage being built. Selzer talked to the contractor and Parks gave him plans for something more than the garage. Selzer called the building department and a stop work order was placed on the property.

A new permit (ZCP 15-093) for a two (2) story garage was issued on August 6, 2015 replacing permit ZCP 14-065. The stop work order was removed and they could continue with the garage.

Selzer talked with Service about changing the garage to a dwelling. Service had originally planned on remodeling the existing cottage. Service said he found out that the main home was unfit for remodel.

The foundation and roof trusses are bad and that the main home is outside property lines and less than 10 feet from the neighbor.

#### **APPLICANT PRESENTS REASONS FOR APPEAL:**

Chairman Janusz asked for Mr. Service to present his reasons for this appeal.

Mr. Service said when he bought the house he had it inspected and showed no problems failed. Service said he wanted a large garage for a work shop and an art area. When he started to dismantle the lower house, he found the inspector never caught that one wall was under dirt. There was a concrete area that had covered the side of the wall. It was never caught by the inspector. When Service pulled the dry wall out of the ceiling there was a truss hemorrhaging. The inspection said it was a wood frame all around and half of it is cinder block. It is very hard to work with for modifications. The foundation had dropped four (4) inches by the lake side. Not caught by the inspector.

Mr. Service understands the rules and appreciates the process. He is hoping he can use the back of the garage for a work shop. The house is also so close to the neighbors with it over the property line. The old house experienced erosion with a lot of water coming down and dirt onto the house. If he knew all this before, he would not have bought this cottage. He hopes he can take the building down.

They have taken down three (3) electric poles and put in a drain to help with run off. They are putting roads and curbs in to make it better.

#### **SUPPORTING STATEMENTS FROM PUBLIC:**

**Larry Bultema** said Mr. Service's house is six or seven feet over on his property and his property is six or seven feet over on Stone's property.

Mr. Service said there was a survey provided when he bought the house but he paid cash so didn't think he needed another survey.

Mr. Bultema urged the board to approve this variance request as it will improve the area. He understands he will benefit the most but knows it will improve the area.

Warren asked Bultema if he will do anything to his garage. Bultema said he has just added a retaining wall and put in a cement drive. He doesn't have plans to do anything to his garage.

**Jeff Parks** supports the variance as well. It will be a good situation for Bultema too. It will help with nothing up front for him. All the homes in that area are staggered back and forth from the front to the back of the road.

**Bill Sherman** said he believes it is great that he is building the house behind the road. He only questioned if it was on his property or part of the 20 foot easement. He is in a low spot so this will make him better off. Warren said it is on his property just that he doesn't meet the side setbacks. Sherman asked how he got the permit on a 40 foot lot. Selzer said the setback requirement is five feet for an accessory structure on a non-conforming lot. Side setbacks for a dwelling on a non-conforming lot are 16'<sup>7</sup>/<sub>8</sub>'. An eight (8) foot minimum on one side. There is sewer but it is a non-conforming lot.

#### **OPPOSING STATEMENTS FROM PUBLIC:**

**Pete Hall** questioned how it got this far along before this became an issue. It seems like it progressed awfully far before the Township questioned it.

Janusz said this seems to happen a lot of times on the lakes. Selzer caught it in July. Selzer did not have good communication from Mr. Parks as to the changes.

**Sheryl Miller** said they are directly behind Service and now see a roof and not the lake. She also stated that water comes down the driveway behind the houses. Nothing holds the land up. The driveway he made slants towards the Service house. Water will come toward the house and run off to the lake.

Pitzer asked if a permit was issued and given a site plan. This was inspected by the County Drain Commissioner and it passed.

#### **ZBA MEMBERS QUESTIONS AND COMMENTS:**

Janusz asked about the windows on the gable end. Selzer said the original permit allowed a 30 x 32 garage. No drawings for the garage. In July Selzer saw the openings for windows and a slider door. In the new permit Service was allowed two windows per side and one utility door for entrance to the garage area, nothing on the second floor, no interior walls except one going across the middle for stability of the exterior walls, no decks, no decking on attic trusses. That permit was amended to allow decking on the attic trusses to allow stability on the structure and to allow for more safety when putting on the roof decking.

Janusz asked about the 20 foot easement. Service said it was right next to his property. The neighbor's garage is almost halfway into the easement. The easement is owned by Michigan Land and Outing. It is there for everyone.

Janusz asked when he decided to go two stories. Service said the trusses were in the original plans.

Warren asked Service when he discovered he had issues with the house. It was within three or four months after buying it but Service still planned on remodeling the existing house.

Pitzer said LSL Planners have done a review of the application and have written an opinion that refers to the six (6) standards in the review process.

#### **FINAL REBUTTAL OR COMMENTS:**

Cathy Cain said the water quality in the cove is very cloudy and will affect all of us. She doesn't know what is causing it but has noticed now that it is very cloudy.

#### **HEARING CLOSED TO PUBLIC COMMENT:**

Chairman Janusz closed the hearing to the public at 7:40 p.m.

#### **DELIBERATIONS BY THE ZBA:**

Roehrig thought Mr. Service went into this with good faith. Warren said it's a hard situation with Service being on the neighbor's property and so on.

Pitzer said it is an improvement of the situation and will better the neighborhood with removal of all structures, the shed in the waterfront area, and having the fifty foot setback. It will make it better.

Roehrig asked about the land between the road and waterfront. Service said he would like to put in a small gazebo and landscaping.

Janusz said normally we cannot approve a variance if all six standards aren't met. The rules are to help the next person that would buy that house. If there are complaints on water he needs to see the Drain Commissioner.

#### **FINDING THE FACTS:**

Janusz read through the six standards.

1. Met
2. The ZO said the standard was not met. An amendment to the Zoning Ordinance would reduce accessibility for emergency services.
3. Met
4. Met
5. Not met
6. Not met

LSL also sent us the Standards of Review. They show all conditions met.

Selzer wouldn't normally recommend the request for variance but in this particular situation it will benefit the Township and the property owner.

**MOTION AND ROLL CALL:**

**Moved** by Pitzer, **Seconded** Warren for a conditional approval. The six standards have been met and all structures be removed from the road going toward the lake prior to occupancy. The Township Standards for the front setback of 50 feet be kept and honored.

Ayes – Janusz, Warren, Pitzer, Roehrig

Nays – None

Motion Carried

Mr. Service needs to meet with Selzer yet tonight to get the permit for demolition and the home as Selzer is going on vacation this weekend.

**RECESS:** 7:58 p.m.

**CORRESPONDANCE:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

The ZBA will meet at 9:00 a.m. on Thursday, October 8, 2015 to approve the minutes from this hearing.

**BOARD MEMBER COMMENTS:** None

**PUBLIC COMMENTS:** None

**ADJOURNMENT:**

**Moved** by Pitzer, **Seconded** by Roehrig to adjourn.

Ayes – All

Nays – None

Motion carried.

The meeting was adjourned at 8:10 p.m.

RESPECTFULLY SUBMITTED,

---

Mark Pitzer, ZBA Secretary  
Recording ZBA Secretary

---

Maureen Dutkiewicz,

