

**BROOKS TOWNSHIP
ZONING BOARD OF APPEALS HEARING
Kevin Waller
Parcel# 62-19-31-360260-012
October 18, 2021
APPROVED**

MEMBERS PRESENT: Frank Janusz, Mark Pitzer, Dave Warren, Derrik McLeod

MEMBERS ABSENT: Greg Myers

MEMBERS OF THE PUBLIC PRESENT: Joe Selzer, Zoning Administrator,
Kevin Waller, Ryan Pendergast, Maureen Madrid-Wilson and spouse, Mr. Wilson

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

APPROVAL OF AGENDA:

Moved by Warren, **seconded** by McLeod to approve the agenda. **Unanimously Approved**

RULES OF PROCEDURE:

Chairman Janusz introduced himself and explained the order of procedure for the hearing.

APPLICANT: Kevin Waller was physically present.

REASON FOR HEARING:

Chairman Janusz stated the hearing is the result of a variance request, by Kevin Waller to reduce the required lot area in the Lakefront (LD) District, located at 9054 S. Redwood Dr., Parcel # 62-19-31-260-012.

ADJOINING PROPERTY OWNERS' NOTIFICATION:

All property owners within 300 feet of the above parcel were notified with a copy of the Public Notice for the October 18, 2021, hearing.

ZONING ADMINISTRATOR COMMENTS: (See Staff Report for Variance Request filed 5/5/21)

Joe Selzer, ZA, provided detail of the property location and background for the variance request. Both lots involved are non-conforming lots. The report concluded that even though the subject parcel size was created when the area was platted, five of the six standards are not met and the request was denied based on current Ordinance requirements.

APPLICANT’S REASONS FOR APPEAL:

Mr. Waller explained the lot is currently non-conforming due to Ordinance requirements adopted in 1988. He states that prior to 1988 the property was conforming. He wants to deed less than 250 square feet to his neighbor Ryan Pendergast. This will give Mr. Pendergast 13.5 more square feet of lake frontage and improve his lot. Mr. Waller states he does not need the square footage and it returns the property lines closer to what they once were. The change does not negatively impact him.

SUPPORTING/OPPOSING STATEMENTS FROM PUBLIC:

Ryan Pendergast and Maureen Madrid-Wilson are co-owners of the property that will be positively impacted by a transfer. They agree with the change and state it will straighten out the property lines which they believe were in place since the mid 1920’s. Mr. Pendergast believes there are extraordinary circumstances due to riparian rights and the current property split negatively impacts his dock placement.

ZBA CHAIRMAN REVIEW

Chairman Janusz, noted Article 19.01 states that lots may be extended provided that no greater violation of yards are occasioned thereby. Basically, this means that a lot cannot be made more (or less) conforming. Mr. Waller’s proposed change does not meet this criterion.

Chairman Janusz proposed an option to move the property line so the square footage of the properties would not change. Mr. Pendergast has no issues with this option, however, the claimant, Mr.Waller did not favor of this option.

ZBA MEMBERS QUESTIONS AND COMMENTS:

Standards of Review were read aloud.

Moved by Warren to grant the request as written. The motion was **not seconded** so it was not carried to a vote.

Moved by Pitzer to deny as the request did not meet extraordinary circumstances. The motion was **not seconded** so it was not carried to a vote.

FINAL REBUTTAL/COMMENTS

Mr. Pendergast believes there are extraordinary circumstances due to Riparian Rights.

CORRESPONDENCE: None

DELIBERATIONS BY THE ZBA:

ZBA members discussed and presented the motions identified below.

MOTION & ROLL CALL VOTE

Moved by Janusz, **seconded** by McLeod to approve the variance by moving the property line so square footage does not change but will allow for Mr. Pendergast’s dock to be within the property.

Unanimously Approved by Roll Call Vote: AYES:Janusz, Pitzer, Warren and McLeod.

NEW BUSINESS:

- 1) Approval of Waller minutes is scheduled for Wednesday, November 3, 2021
- 2) Future Meetings - Future meetings will consistently be held on Wednesday

UNFINISHED BUSINESS

1) Moved by Warren, seconded by Pitzer, to accept the Portenga minutes. Unanimously Approved.

BOARD MEMBER COMMENTS: Comments received

PUBLIC COMMENTS: None

ADJOURNMENT: Meeting was closed by Janusz at 8:55 PM

Respectfully submitted,

FrankJanusz_____
Zoning Board Chairman

DiannaSchaafsma_____
Recording Secretary