

FINDINGS OF FACT ZBA 5/17/23

- 1) *The Zoning Ordinance requires a 75' setback from the water's edge and a 10' setback for side yards.*
- 2) *The Zoning Ordinance requires "the yard area free of all buildings and structures shall constitute at least seventy-five (75) percent of the lot."*
- 3) *Applicant signed and was issued a land use permit on 8/17/ 2016; said permit was compliant with Cleveland Township ordinances.*
- 4) *Deck and side overhang were added later without a new permit, putting the property out of compliance.*

Findings of fact relative to the criteria for "practical difficulty" ordinance interpretation:

- 1) **Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.** The applicant had a compliant site plan and corresponding Land Use Permit signed by the Zoning Administrator and Mr. Zywicki. No practical difficulty or unnecessary burdensome conditions existed as evidenced by the signed Land Use Permit dated 8/17/2016 with no related application for variance.
- 2) **Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.** The Zoning Ordinances which have been violated are established requirements within the Township, lawfully enacted to protect current and future property owners. Setbacks and lot coverage are established to provide safety in case of emergencies and water quality from contamination due to excessive runoff and erosion. Granting a variance for noncompliant, non-approved building additions would not be consistent with the spirit of the Township ordinances and do an injustice to other property owners at present and in the future.
- 3) **Whether relief can be granted in such fashion that the spirit of the ordinance will be observed, and public safety and welfare secured.** The applicants agreed to an approved and compliant site plan and Land Use Permit that allowed use of their property and protected the integrity of their neighbors' property rights in the present and future and secured the public welfare and safety. Since a compliant permit was issued, to allow an unnecessary variance would set a precedent rendering zoning ordinances void of meaning causing serious harm to the Township.
- 4) **Whether the applicant's problem is self-created.** All requested variances are after the fact of an agreed to, signed and approved site plan and Land Use Permit. The violations are self-created. The variances requested are not in the spirit of the Zoning Ordinances which protect the welfare and property rights of neighbors and lake riparian.

Motion: Deny all requested variances per Section 14.09 as Submitted by Applicants for the following: 33 ft variance from the waters edge, an 8 ft variance from the side lot on North property line, a 5 ft. variance from the South lot property line, and 7 sq. ft variance on the yard area.

