

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of August 27, 2009

Members in Attendance

Jeffrey Staub, Chairman  
Sara Jane Cate, Vice Chairperson  
David Dowling  
Richard Freeburn

Also in Attendance

James Turner, Solicitor  
Lori Wissler, Planning & Zoning Officer

**Variance Via  
Docket #1266**

Applicant: Mark M. & Deanna L. Murdoch  
Address: 1602 Essex Road  
Property: 1602 Essex Road  
Interpretation: The minimum rear setback is 30 feet in the R-1 zone.  
The applicant proposes a rear setback of 19 feet.  
Grounds: Section 307.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.  
Fees Paid: August 3, 2009  
Property Posted: August 17, 2009  
Advertisement: Appeared in The Paxton Herald on August 12 & 19, 2009

The hearing began at 7:04 pm.

Mr. Staub stated it is customary for the Board to enter the application and site plans as Township exhibits. The applicant had no objection to its doing so.

The following were sworn in: Mark Murdoch, 1602 Essex Road, Applicant; and Lori Wissler, Planning & Zoning Officer.

Mr. Murdoch stated that his house was built in 1996, and in 1998 or 1999 they added a concrete patio. He had received approvals from Lower Paxton Township and the Kings Crossing Home Owners Association (HOA) to construct a roof structure over the

existing patio. During the planning process for the roof, he decided he would like to screen or enclose the patio. His understanding was that he could build a roof over it, but in order to screen it in or enclose it he would require a variance for setbacks. He has obtained approvals from the HOA to enclose the room over the patio, and is now seeking the variance from the Township.

Mr. Murdoch stated that when they bought the lot, the developer gave him a plot plan that showed the buildable envelope, and was advised to design a house to fit within that envelope. They did, and submitted it to a builder, who submitted it to the Township for a building permit, and it was approved. The house was built as designed. Several years later it was brought to his attention that an error occurred when the approvals were issued. The house faces Essex Road, and the driveway enters onto Essex Road, and there is a 15 foot rear yard. The only way it should have been built without variances, would be to run the driveway from Buckingham Drive. Regardless where the house itself faces, the yard opposite the driveway is considered the rear. There is only a 15 foot rear yard as was approved and built, and the request before the Board tonight is an extension of that. The room will be set in front of the rear of the house, so it will have a setback line of 19'9", where the house will remain 15 feet. He noted that if this had been designed in accordance with the codes in 1996, this area would have been the garage. He further stated that this enclosure will not be inconsistent with the homes in the neighborhood.

Mr. Staub asked if the Township uses the same rules in determining the rear yard on a corner lot. Ms. Wissler stated that has changed, the Township now takes the position that the yard that is opposite the front door of the home is the rear yard. She noted that in this case, the result is the same. Mr. Staub stated that either definition places the rear yard in the same place for this particular home. Ms. Wissler stated that is correct.

Mr. Murdoch stated that at this time you are permitted to construct a roof over a patio within 15 feet of the rear yard setback. Ms. Wissler stated that he is correct, an unenclosed deck may extend a maximum of 15 feet into the rear yard setback, and may be covered with a roof or awning.

Mr. Staub stated that in July 1998, the applicant was before the Zoning Hearing Board for the same structure, and there appears to have been some opposition. He asked if the applicant has spoken to the neighbors. Mr. Murdoch stated yes, he spoke to all the neighbors that appeared that night. He was told by them to do whatever he wants, and it never mattered to them anyhow, they were only there to support the one neighbor who was concerned about it. He added that the zoning office made an error in that event as well, he went through the whole variance process only to find out at the meeting that he didn't need a variance. He stated that the confusing information he has received over the years has added challenges to his life. Mr. Murdoch stated he has spoken to the four neighbors, and the one behind him is the one that was most concerned. Mr. Staub asked if there is no opposition to the proposal. Mr. Murdoch stated that was correct.

Mr. Staub asked if the applicant got a refund. Mr. Murdoch stated that he did.

Mr. Dowling asked if there is a roof over the patio currently. Mr. Murdoch stated it is a slab with footers. He had gotten a permit to put the roof over it, and as he proceeded with the design of the structure, he considered the idea of enclosing it in the future. He would like to have the necessary approvals in place before he does anything.

Mr. Turner asked if the enclosure will be done when the roof is put on. Mr. Murdoch answered that he will.

Ms. Cate asked how it will be enclosed, such as, glass, screens or both. Mr. Murdoch stated that he is considering "easy breeze", a product that is a screen with a vinyl window on the inside. It is also possible that it will be glass. He can't decide what he wants to do until he knows what he is allowed to do.

There was no comment from the audience.

Ms. Wissler stated that the Township had no problem with the variance, and suggested the time period be extended to one year.

Ms. Cate made a motion to grant the application as submitted, with the one year extension. Mr. Freeburn seconded the motion. A role call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 7:20 pm.

Respectfully Submitted,

Michelle Hiner  
Recording Secretary