



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

6880 DEXTER-PINCKNEY ROAD
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CHANDRA HURD, *ALT.*

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING MINUTES OF THE ZONING BOARD OF APPEALS

Tuesday April 2, 2019

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Jay Holland, Jim Drolett, and Marty Straub. Absent: None

Also present: Rachel Jackson, OHM Advisors; Mike Compton, Township Board & Livestream monitor; Chandra Hurd, ZBA alternate; and Janis Miller, Recording Secretary.

1. Call to Order and Pledge of Allegiance:

The meeting was called to order by Chairperson Smith at 6:00 p.m.

2. Approval of Agenda:

After discussion and without objections Chairperson Smith declared the agenda approved as presented.

3. Approval of Minutes:

Moved by Drolett, **seconded** by Filip, to approve the minutes of the March 5, 2019, as presented. **Motion carried by voice vote.**

4. Public Comment (Non-agenda Items): None

5. Action Items:

Item #1 (18-ZBA-857AB) Da Silva

Moved by Filip, **seconded** by Drolett, to postpone the Da Silva variance request until the May 7, 2019 meeting. **Motion carried by voice vote.**

Item #2 (19-ZBA-862) Morhous

- A) a front yard accessory structure with a reduced front-yard setback of twelve (12) feet rather than the twenty-five (25) feet allowed;
- B) lot coverage for a front-yard accessory structure of five hundred seventy-six (576) square feet rather than the one hundred (100) square feet allowed; and
- C) a structure height of twenty-three (23) feet rather than a peak height of eight (8) feet.

a. **Conflict of Interest/Ex-parte Contact Review:** None

b. **Staff Presentation and Questions from ZBA members:**

Rachel Jackson, OHM Advisors, summarized the staff report and answered questions from the ZBA members.

c. Petitioner Presentation and Questions from ZBA members:

Marc Morhous, homeowner and petitioner, stated his case and answered questions from the ZBA members.

d. Public Comment: Open 6:08 pm

i. letters and/or emails

None

ii. comments from public in attendance:

Doug Christensen, 9215 McGregor, Pinckney, MI

Stated he was in favor of the garage as an improvement in the neighborhood.

Close: 6:10 pm

e. Zoning Board of Appeals deliberations and Standards of Review:

(1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Smith – I think clearly because of the shape of this lot, and the orientation of the buildings on it, all three of these requests are reasonable.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Filip – Due to the configuration of the lot, multiple front yards and the waterbody being where it is, where the house has to be located relative to it. Smith – Yes for the reasons previously stated.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Smith – Clearly the applicant had nothing to do with the size or shape of the lot.	<u>NO</u>	<u>NO</u>	<u>NO</u>

Documents regarding the agenda items can be obtained at the Township hall during normal business hours, the Townships website: www.dextertownship.org and can be viewed on ew.livestream.com/dextertownship.org.

	None	None	None
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(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Holland – I think it is a very reasonable amount considering storage is necessary for this type of property and by going two story its actually less square footage. Filip – In part, due to the placement where he has to place this structure, it is where it is in the front yard. It’s not uncharacteristic of the other lots in the area, and this is appropriate. Smith – Particularly when we dealt with changing the front setback [to 18 feet] we settled all our reasonable amount issues.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Filip – It might improve the situation in that area. Drolett – Yes now that we are moving it back to the 18 feet, that helps out. Smith – Yes and joining with Jim and his analysis.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Holland – I think it may positively affect the adjacent properties. Filip – Yes for the same reasons. Drolett – And for removing the shed that is partially on the abutting property will improve the value.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B	C
	18.23 Front-yard (accessory)	18.18(C)(3)c Lot Coverage	18.18(C)(3)b Height
<i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i>	<u>YES</u> Holland	<u>YES</u> Holland	<u>YES</u> Holland

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Notes: Holland – Most certainly the approval of this variance is consistent with the intent and purpose, given that it improves the situation. Filip – Yes for the same reasons.	Filip Straub Drolett Smith <u>NO</u> None	Filip Straub Drolett Smith <u>NO</u> None	Filip Straub Drolett Smith <u>NO</u> None
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f. Motion by Zoning Board of Appeals:

Moved by Filip, **seconded** by Holland, to approve the variance[s], as amended, for petition (19-ZBA-862) Morhous, located at 9175 McGregor, tax id (D-04-01-481-005), specifically to Ordinance §18.23, adjusting the required setback of twenty-five (25) feet and granting a setback of eighteen (18) feet, as now amended; variance §18.18 (C)(3)(c) adjusting the maximum one hundred (100) square feet, for an accessory building required, and approving five hundred seventy-six (576) square feet accessory building; as well as Ordinance §18.18(C)(3)(b) of a peak height of eight (8) feet and approving a twenty-three (23) feet peak height; the approval of these variances are with the condition of the removal of the shed that is currently existing on, partially on, the property presently.

Roll Call Vote: Yes – Holland, Filip, Straub, Drolett, Smith; No – None; Abstain – None; Absent – None. Motion carries 5-0.

Chairperson Smith comments to petitioner: You’ve got your variance[s]. Be sure to work with staff, get whatever documents you need, your variance[s] will expire in one year.

Item #3 (19-ZBA-866) Skender

- A) a reduced front-yard set-back of twenty-three (23) feet one (1) inch rather than the twenty-five (25) feet allowed; and
- B) a reduced waterbody setback of twenty (20) feet rather than the fifty (50) feet required.

a. Conflict of Interest/Ex-parte Contact Review: None

b. Staff Presentation and Questions from ZBA members:

Rachel Jackson, OHM Advisors, summarized the staff report and answered questions from the ZBA members.

c. Petitioner Presentation and Questions from ZBA members:

Matt Skender, homeowner and petitioner, stated his case and answered questions from the ZBA members.

d. Public Comment: Open 6:31 pm

i. letters and/or emails

Two letters of support in the Board packets.

ii. comments from public in attendance

None.

Documents regarding the agenda items can be obtained at the Township hall during normal business hours, the Townships website: www.dextertownship.org and can be viewed on ew.livestream.com/dextertownship.org.

Close 6:31 pm

e. Zoning Board of Appeals deliberations and Standards of Review:

(1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard:	A	B
	18.23(A) Front yard	18.23(B) Waterbody
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Smith – As staff has pointed out, given the set-back requirements it wouldn't be possible to build anything on this lot.	<u>NO</u> None	<u>NO</u> None

(2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard:	A	B
	18.23(A) Front yard	18.23(B) Waterbody
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Filip – The size of the property, and the set-backs, your just not going to get anything practical in there. Smith – Yes, for the reasons stated.	<u>NO</u> None	<u>NO</u> None

(3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard:	A	B
	18.23(A) Front yard	18.23(B) Waterbody
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Holland Filip Straub Drolett Smith	<u>YES</u> Holland Filip Straub Drolett Smith
Notes: Holland – Definitely not self-created.	<u>NO</u> None	<u>NO</u> None

(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:	A	B
	18.23(A) Front yard	18.23(B) Waterbody

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<p>The variance is a reasonable amount necessary to mitigate the practical difficulty.</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>
<p>Notes: Holland – I believe it [reasonable amount necessary] it is. Filip – In this situation where we’re dealing with a waterbody set-back and then we also have to be cognizant of where the structures compare to, for example, the road or the front of the house. I don’t see how he does it any other way. Drolett – The removal of the shed will actually be an improvement on the set-backs.</p>	<p><u>NO</u> None</p>	<p><u>NO</u> None</p>
<p>(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:</p>	<p>A 18.23(A) Front yard</p>	<p>B 18.23(B) Waterbody</p>
<p>Approval of the variance will not be injurious to the public health, safety, and welfare.</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>
<p>Notes: Holland – I don’t believe it would be injurious. Filip – No evidence has presented itself that it would.</p>	<p><u>NO</u> None</p>	<p><u>NO</u> None</p>
<p>(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:</p>	<p>A 18.23(A) Front yard</p>	<p>B 18.23(B) Waterbody</p>
<p>Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>
<p>Notes:</p>	<p><u>NO</u> None</p>	<p><u>NO</u> None</p>
<p>(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:</p>	<p>A 18.23(A) Front yard</p>	<p>B 18.23(B) Waterbody</p>
<p>Approval of the variance is consistent with the intent and purpose of this Ordinance.</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>	<p><u>YES</u> Holland Filip Straub Drolett Smith</p>
<p>Notes: Smith – This very sort of situation that the Ordinance contemplates us granting variances for.</p>	<p><u>NO</u> None</p>	<p><u>NO</u> None</p>

f. Motion by Zoning Board of Appeals:

Moved by Filip, **seconded** by Holland, to approve the variances requested in petition (19-ZBA-866) Skender, located at 9931 Winston Road, tax id (D-04-02-101-022), for approval to Ordinance §18.23(A) of a requested front yard set-back

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of twenty-three (23) feet one (1) inch in comparison to the twenty-five (25) foot front yard set-back that is normally required; and also, to approve the requested twenty (20) foot waterbody set-back under Ordinance §18.23(B) as opposed to the fifty (50) foot waterbody set-back that's traditionally required; this approval being conditioned upon the removal of the shed that is currently existing. To clarify, this motion is to approve a garage with a 25' x 36' structure, including overhangs.

Roll Call Vote: Yes – Holland, Filip, Straub, Drolett, Smith; No – None; Abstain – None; Absent – None. Motion carries 5-0.

Chairperson Smith comments to petitioner: You have your variance[s]. As I said to the last applicant, be sure to work with staff, get whatever permits you need to move forward on this. You lose it within a year, if you don't start it within a year.

Item #4 (19-ZBA-865) Frey

- A) a reduced waterbody set-back (for deck) of twenty-three (23) feet rather than the fifty (50) feet required; and
- B) a reduced waterbody set-back (for patio) of sixteen (16) feet rather than the thirty-five (35) feet required.

- a. **Conflict of Interest/Ex-parte Contact Review:** None. Filip noted that she had knocked on the door to let them know she was there but had no further interaction with the applicants.
- b. **Staff Presentation and Questions from ZBA members:**
 Rachel Jackson, OHM Advisors, summarized the staff report and answered questions from the ZBA members.
- c. **Petitioner Presentation and Questions from ZBA members:**
 John and Kathy Frey, homeowners, summarized the property history and their application for variances.
- d. **Public Comment:** Open 6:55 pm
 - i. **letters and/or emails**
 Three letters of support in the Board packets.
 - ii. **comments from public in attendance**
 None.
 Close 6:55
- e. **Zoning Board of Appeals deliberations and Standards of Review:**

(1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Filip	<u>YES</u> Holland

Notes: Filip – I think these lots are particularly small and that in this case if we were to tell them that they couldn't have their decks, because we're really looking at a line, from feet at the edge of the deck to the water. I think it's OK. I felt that they would enjoy this with substantial rights enjoyed by other people in this situation all up and down the Portage Lake shoreline. It's a practical difficulty, the lot is too small. Smith – I think it is a practical difficulty because of the size of the lot.	Straub Drolett Smith <u>NO</u> Holland	Filip Straub Drolett Smith <u>NO</u> None
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(2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Filip Straub Drolett Smith <u>NO</u> Holland	<u>YES</u> Holland Filip Straub Drolett Smith <u>NO</u> None
Notes: Holland – I vote no on the two-story deck and yes on the stamped concrete. Smith – Yes, because of the size of the lot.		

(3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Filip Straub Drolett Smith <u>NO</u> Holland	<u>YES</u> Holland Filip Straub Drolett Smith <u>NO</u> None
Notes: Holland – This is where it gets tricky as I voted there was no practical difficulty Filip – They did not have a hand in creating this. I believe that they testified before us today that when they purchased the property, they had every right to the decks and patio out there. Smith – I don't think they were involved in this although I do think it's a practical difficulty.		

(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Filip Straub Drolett Smith <u>NO</u> Holland	<u>YES</u> Holland Filip Straub Drolett Smith <u>NO</u> None
Notes: Holland – If I felt there were a practical difficulty, then I would vote no because the house is definitely livable with less.		

(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
Approval of the variance will not be injurious to the public health, safety, and welfare.	YES Holland Filip Straub Drolett Smith	YES Holland Filip Straub Drolett Smith
Notes:	NO None	NO None
(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	YES Holland Filip Straub Drolett Smith	YES Holland Filip Straub Drolett Smith
Notes:	NO None	NO None
(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B
	18.23(B) Deck waterbody	18.23(C)(1) Patio waterbody
Approval of the variance is consistent with the intent and purpose of this Ordinance.	YES Filip Straub Drolett Smith	YES Holland Filip Straub Drolett Smith
Notes: Holland – I think it is inconsistent with the intent of this Ordinance, so no.	NO Holland	NO None

f. Motion by Zoning Board of Appeals:

Moved by Drolett, **seconded** by Filip, to grant the variance[s] for Zoning Board of Appeals number (19-ZBA-865), with a tax id number of (04-02-175-018 & 04-02-153-005), for the property located at 9802 Winston Drive, to allow a reduced waterbody set back of twenty-three (23) feet, and a reduced waterbody set back, for a patio or deck, of sixteen (16) feet; and to recognize the nonconformities of the lot size, as in the staff report; with the condition that the second-story deck remain uncovered.

**Roll Call Vote: Yes – Filip, Straub, Drolett, Smith; No – Holland;
 Abstain – None; Absent – None. Motion carries 4-1.**

Item #5 (19-ZBA-868) Knibbe/Sly

A) Increase lot coverage of twenty-seven (27) percent rather than the twenty-five percent allowed.

a. **Conflict of Interest/Ex-parte Contact Review:** None

b. **Staff Presentation and Questions from ZBA members:**

Rachel Jackson, OHM Advisors, summarized the staff report and answered questions from the ZBA members.

c. **Petitioner Presentation and Questions from ZBA members:**

Keith Fineberg, colleague, representing the applicants, answered questions.

d. **Public Comment: NONE**

i. letters and/or emails

ii. comments from public in attendance

e. **Zoning Board of Appeals deliberations and Standards of Review:**

Discussion: Design is different than originally approved (increased lot coverage of 25.6%) for variance (now requesting 27%); garage is now at an angle, creating a whole new set of issues, and may intrude into the side-yard setback (stone wall encroachment not noticed previously); overhang not noticed; size of garage could be reduced a foot to get back to 25.6% lot coverage.

f. **Motion by Zoning Board of Appeals:**

Moved by Drolett, **seconded** by Holland, to table this request until such time as additional information is submitted, and the notice is amended, and re-posted.

Motion carried by voice vote.

6. Public Comment:

Mike Compton,

Updated Zoning Board of Appeals on updated to the Township website.

7. Concerns of Zoning Board of Appeals Members, Director of Planning and Zoning, and Recording Secretary:

Jim Drolett – The new Director of Zoning and Planning may be starting April 15th.

Rachel Jackson – The May meeting, applicant DaSilva will be noticed for four (4) variances.

Holland – Concerning the Furey variances of last month, his approval was based on the condition that he continue to work on the issues regarding previous variances. Has he contacted the Township regarding working on previous variances?

Smith – We need to take a look at our decision matrix and think about what should be required, so we can tell the Board of Trustees what the decision matrix for granting variances ought to be like.

8. Adjournment:

Chairperson Smith declared the meeting adjourned at 7:55 p. m.

Respectfully submitted,

Jay Holland, Secretary

Janis Miller, Recording Secretary

draft 04 04 2019