



# DEXTER TOWNSHIP

## ZONING BOARD OF APPEALS

6880 DEXTER-PINCKNEY ROAD  
DEXTER, MI 48130

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RECORDING SECRETARY

### MINUTES of the REGULAR MEETING OF THE ZONING BOARD OF APPEALS Tuesday, March 5, 2013

Members present: Donald Darnell, Chairperson, Jim Drolett, Vice Chairperson, Mary Adams, Secretary and Planning Commission Representative, Brook Smith, Jim Cormier, Alternate.

Absent: Jamie Hodges

Also Present: Zach Michels, Planning and Zoning Director, and DeNette Bolyard, Recording Secretary.

- I. Call to Order:** The meeting was called to order by Chairperson at 6:01 p.m.
- II. Pledge of Allegiance:** Chairperson Darnell led the Pledge of Allegiance to the Flag.
- III. Approval of Agenda:** Chairperson Darnell read the proposed agenda.  
Motion by Smith, support by Drolett to approve the agenda as read.  
Motion carried by voice vote.
- IV. Public Comment- Non Agenda Items:** None
- V. Action Items:**

<b>Action Item: # 1</b>
<b>Appeal Number: 12-ZBA-751</b>
<b>Applicant Name(s): Frank &amp; Lisa Johnson</b>
<b>Property Tax ID: 04-02-400-026</b>
<b>Address: 9411 Dexter Pinckney Rd. Pinckney</b>

**Purpose of Variance Request:** To demolish an existing duplex and construct a new, single-family home. The proposed house is within the required front-yard setbacks from Dexter-Pinckney Road, Little Porgage Lake, and the canal and the required side-yard setback. A proposed, uncovered deck and patio is within the required front-yard setbacks from Little Portage Lake and the canal. The proposed home exceeds the maximum height allowed.

Chairperson Darnell introduced the case as noted above and did not read aloud persons noticed for this hearing, but noted that list would be kept on file in the Township Office.

#### Zoning Report

Report, dated, March 5, 2013 was summarized by DPZ Michels and placed in its entirety into the applicants' property file.

**Q & A with Michels, DPZ:**

Section 19.02 (Non—conforming structures) of the Zoning Ordinance was discussed between the ZBA members and DPZ Michels, and how non-conforming structure are allowed to expand.

**Applicant Presentation and Q & A with the ZBA:**

Frank & Lisa Johnson were present and explained to the Board that the current foundation isn't stable and their wish is to move the new dwelling from the lake so they decided to demolish entirely and re-build. The view will be better to the lake. They would like to raise the height and like the third level observation level for the view.

- Cormier asked for clarification on the applicants options for using the same footprint.
- Drolett likes the plan being proposed
- Darnell asked the applicant if he spoke with his neighbors about the side yard setbacks
- Smith said that he recently was appointed to the Board and understands that the applicant had come before the Board previously and was asked to revise plan and bring back. Would like to know what had been previously requested. Applicant explained that the plans were larger in lot coverage and therefore needed to make smaller.

**Public Hearing:**

Indicated that there were no letters from neighbors on record.

**Edward Roberts  
9416 Dexter Pinckney Rd**

Neighbors of the Johnsons' - Absolutely approves of their plan; he stated it would greatly benefit all of the community.

**ZBA Deliberations:**

Smith still has a concern about how the ZBA deals with a prior non-conforming structure being rebuilt.

Chairperson Darnell asked ZBA member if the petition met the standards of review.

**Standards of Review:**

The ZBA shall have the power to authorize specific variances from the standards of this Ordinance provided that the spirit of this Ordinance is observed, the public safety secured, and substantial justice done. All the required findings listed below shall be met and the record of proceedings of the ZBA shall contain evidence supporting each conclusion.

Use 4.05(C)(1)(a) Does the requested variance meet the following standard:	12.03(E)(3)a/ 18.23(A)(1)c Front-yard (Road)	12.03(E)(3)a/ 18.23(B) Front/Water (Canal)	12.03(E)(3)a/ 18.23(B) Front/Water (Lake)	18.18(C)(1) Patio Water (Canal)	18.18(C)(1) Patio Water (Lake)
<b>The variance shall not permit the establishment, within a district, of any use which is not a permitted principal use within that district.</b>	YES	YES	YES	YES	YES
<i>Single-family homes are permitted uses in Lake Residential Districts.</i>	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell

<b>Property Control 4.05(C)(1)(b)</b> <b>Does the requested variance meet the following standard:</b>	<b>12.03(E)(3)a/ 18.23(A)(1)c</b> Front-yard (Road)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Canal)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Lake)	<b>18.18(C)(1)</b> Patio Water (Canal)	<b>18.18(C)(1)</b> Patio Water (Lake)
<b>The variance will relate only to the property under the control of the applicant.</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<i>The applicants own and control the property, through FMJ Properties.</i>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>

<b>Practical Difficulty: Economic Circumstances 4.05(C)(1)(c)(i)</b> <b>Does the requested variance meet the following standard:</b>	<b>12.03(E)(3)a/ 18.23(A)(1)c</b> Front-yard (Road)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Canal)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Lake)	<b>18.18(C)(1)</b> Patio Water (Canal)	<b>18.18(C)(1)</b> Patio Water (Lake)
<b>The practical difficulties shall not be economic nor shall the inability to attain a higher financial return be considered a practical difficulty.</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<i>The alleged practical difficulties appear unrelated to economics or financial return</i>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>

<b>Practical Difficulty: Actions of the Applicant 4.05(C)(1)(c)(ii)</b> <b>Does the requested variance meet the following standard:</b>	<b>12.03(E)(3)a/ 18.23(A)(1)c</b> Front-yard (Road)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Canal)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Lake)	<b>18.18(C)(1)</b> Patio Water (Canal)	<b>18.18(C)(1)</b> Patio Water (Lake)
<b>The practical difficulties shall not be self-created or result from actions of the applicant.</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<i>The alleged practical difficulties appear to be related to the size of the lot and the fact that it is surrounded by water on two sides; the applicants had no control over creation of the lot. .</i>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>

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<b>Practical Difficulty: Physical Conditions 4.05(C)(1)(c)(iii)</b> <b>Does the requested variance meet the following standard:</b>	<b>12.03(E)(3)a/ 18.23(A)(1)c</b> Front-yard (Road)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Canal)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Lake)	<b>18.18(C)(1)</b> Patio Water (Canal)	<b>18.18(C)(1)</b> Patio Water (Lake)
<b>The practical difficulty exists because of physical conditions such as narrowness, shallowness, shape, or topography of the property involved.</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<i>The alleged practical difficulty appears to be a result of the large setback from Dexter-Pinckney Road and the property being surrounded by water on two sides.</i>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>

<b>Unreasonable Burden 4.05(C)(1)(d)</b> <b>Does the requested variance meet the following standard:</b>	<b>12.03(E)(3)a/ 18.23(A)(1)c</b> Front-yard (Road)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Canal)	<b>12.03(E)(3)a/ 18.23(B)</b> Front/Water (Lake)	<b>18.18(C)(1)</b> Patio Water (Canal)	<b>18.18(C)(1)</b> Patio Water (Lake)
<b>Strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unreasonably burdensome.</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<i>Strict compliance with the setbacks would make the property unbuildable. The road setback is 100 feet and the water setback</i>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>	<b>Cormier Drolett Smith Adams Darnell</b>

<i>is 50 feet; the property is only 139 feet deep. The zoning ordinance would only allow for replacement of the current, legally non-conforming structure</i>					
<b>Minimum Variance Necessary</b> 4.05(C)(1)(e) <b>Does the requested variance meet the following standard:</b>	12.03(E)(3)a/ 18.23(A)(1)c Front-yard (Road)	12.03(E)(3)a/ 18.23(B) Front/Water (Canal)	12.03(E)(3)a/ 18.23(B) Front/Water (Lake)	18.18(C)(1) Patio Water (Canal)	18.18(C)(1) Patio Water (Lake)
<b>The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.</b>	YES	YES	YES	YES	YES
<i>The proposed home is generally consistent with the neighboring houses. It is closer to the water than some and farther from the water than the others. It is located farther from the street than its immediate neighbors. While the house is not small, it does reflect a reduction in size from the current footprint.</i>	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell

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<b>Adverse Effect</b> 4.05(C)(1)(f) <b>Does the requested variance meet the following standard:</b>	12.03(E)(3)a/ 18.23(A)(1)c Front-yard (Road)	12.03(E)(3)a/ 18.23(B) Front/Water (Canal)	12.03(E)(3)a/ 18.23(B) Front/Water (Lake)	18.18(C)(1) Patio Water (Canal)	18.18(C)(1) Patio Water (Lake)
<b>The variance requested will not cause a substantial adverse effect upon surrounding properties, property values, and the use and enjoyment of property in the neighborhood or district, including public safety.</b>	YES	YES	YES	YES	YES
<i>The proposed home will affect some sight lines. However, it appears that, in general, most of them will be improved as the home will be moved towards the road and away from Little Portage Lake. The proposed site plan is likely to improve the drainage situation in the immediate vicinity.</i>	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell

<b>Intent of the Ordinance</b> 4.05(C)(1)(g) <b>Does the requested variance meet the following standard:</b>	12.03(E)(3)a/ 18.23(A)(1)c Front-yard (Road)	12.03(E)(3)a/ 18.23(B) Front/Water (Canal)	12.03(E)(3)a/ 18.23(B) Front/Water (Lake)	18.18(C)(1) Patio Water (Canal)	18.18(C)(1) Patio Water (Lake)
<b>The variance will be in harmony with the general purpose and intent of this Ordinance.</b>	YES	YES	YES	YES	YES
<i>It appears that the proposed variances would provide for a reasonable use of the land, consistent with the zoning ordinance and Master Plan</i>	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell	Cormier Drolett Smith Adams Darnell

**Recognition of Non-conformities:**

Ordinance Section	Required	Existing	Notes
12.02(E)(1)	21,780 square feet minimum	~11,387 square feet	<i>The property is smaller than what is currently allowed in Lake Residential Districts.</i>
18.18(C)(3)b	6 feet wall maximum, 8 feet peak maximum	~7 feet, ~9 feet	<i>The existing garage is taller than what is allowed for (road) front-yard accessory buildings on waterfront lots.</i>
18.18(C)(3)c	100 square feet maximum	968 square feet	<i>The existing garage is larger than what is allowed for (road) front-yard accessory buildings on waterfront lots.</i>

18.23(A)(1)c	100 feet minimum	-1.5 feet	<i>The existing garage extends into the Dexter-Pinckney right-of-way.</i>
18.23(B)	50 feet minimum	~32 feet	<i>There is an existing parking area northwest of the garage.</i>
18.23(B)	50 feet minimum	~3 feet	<i>The existing garage is located along the Little Portage Canal.</i>

Chairperson Darnell declared all of the Standards of review have been met.

Motion by Drolett, support by Cormier to approve variance as requested.

Roll Call Vote:

Drolett **YES** Cormier **YES** Adams **YES** Smith **YES** Darnell **YES**

**Motion Carried**

**ACTION ITEM # 2 - By-Laws**

Further review, discussion and changes were made to the proposed by-laws. DPZ Michels will make the revisions and submit back to this Board for further review.

**VI. Approval of Meeting Minutes:**

Motion by Drolett, support by Smith to approve the minutes of February 5, 2013 as corrected.

Motion carried by voice vote.

**VII. Concerns of Board Members, Planning Director, Recording Secretary:**

**VIII. Adjournment**

Chairperson Darnell declared the meeting adjourned at 7:50 p.m.

Respectfully submitted,

DeNette Bolyard,  
Recording Secretary

Mary Adams,  
ZBA Secretary

These minutes have been approved by majority vote at the \_\_\_\_\_ Zoning Board of Appeals Meeting.