



# DEXTER TOWNSHIP

## ZONING BOARD OF APPEALS

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DENETTE BOLYARD,  
RECORDING SECRETARY

### REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday, August 6, 2013

Members present: Chairperson Donald Darnell, Jim Drolett, Vice Chair, Acting Secretary, Brook Smith, and Jamie Hodges

Absent: Mary Adams, Secretary

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 Darnell at 6:00 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.

Moved by, Smith, seconded 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: 13-ZBA-775</b>
<b>Applicant Name(s): Anderson</b>
<b>Property Tax ID: 04-32-400-015</b>
<b>Address: 12521 McKinley Heights</b>
<b>Purpose of Variance Request: Construction of a new, detached accessory structure</b>

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

#### Zoning Report

Report, dated July 7, 2013, was summarized by Zach Michels, and will be placed in the property file in its entirety.

Q & A with DPZ, Michels: The Board clarified side yard setbacks.

**Applicant Presentation and Q & A with the ZBA:** Gerry Anderson was present and submitted pictures showing the lot and where they would like to place the garage. She explained that the sloping topography prohibited them from placing the garage in any other place on their lot.

Darnell asked the applicant's what the design of the garage would be. Gerry Anderson submitted pictures of the plans that they were going to use.

Burch was concerned that trees were going to be removed to construct the garage. The applicants assured him they had no plans of removing any trees.

Smith asked the applicants if they had received cost estimates to construct the garage at the side of the lot instead of close to the road? The applicant said they have not as it would be monumental to bring in the required fill.

**Public Hearing:**

Indicated that there were no letters from neighbors on record.

**ZBA Deliberations:**

Darnell stated that he visited the site and the lot is at the end of the cul-de-sac.

Drolett said that he noticed that on McKinley Heights he noticed that there were two or three buildings close to the road.

Burch said that he went out and looked at the site, there were few logical places to put the garage. Neighbors have a propane tank and fence that are closer to the road than the requested setback by the applicants.

**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.

<p><b>Use 4.05(C)(1)(a)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)a.ii.</b> Front-yard setback</p>
<p><b><i>The variance shall not permit the establishment, within a district, of any use which is not a permitted principal use within that district.</i></b></p>	<p><b>YES</b></p> <p><b>BURCH DROLETT SMITH HODGES DARNELL</b></p>
<p><i>Single-family houses are permitted uses in Rural Residential (RR) Districts and detached accessory buildings are permitted accessory uses, provided there is a home located on the lot.</i></p>	
<p>Notes:</p>	

<p><b>Property Control 4.05(C)(1)(b)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)a.ii.</b> Front-yard setback</p>
<p><b><i>The variance will relate only to the property under the control of the applicant.</i></b></p>	<p><b>YES</b></p>
<p><i>The applicants own the property and control its use.</i></p>	

Notes:	<b>BURCH DROLETT SMITH HODGES DARNELL</b>
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<b>Practical Difficulty: Economic Circumstances 4.05(C)(1)(c)(i)</b> <b>Does the requested variance meet the following standard:</b>	<b>18.18(C)(2)a.ii.</b> Front-yard setback
<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>
<i>While it does appear possible to construct a similar garage on the property with increased costs due to grading, it does not appear that a higher financial return would result from the proposed location of the garage versus another location. However, the ZBA may make different findings following a public hearing.</i>	<b>BURCH DROLETT SMITH HODGES DARNELL</b>
Notes:	

<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>18.18(C)(2)a.ii.</b> Front-yard setback
<b>The practical difficulties shall not be self-created or result from actions of the applicant.</b>	<b>YES</b>
<i>The applicants do not appear to be responsible for any possible practical difficulties. However, the ZBA may make different findings following a public hearing.</i>	<b>BURCH DROLETT SMITH HODGES DARNELL</b>
Notes:	

<b>Practical Difficulty: Physical Conditions 4.05(C)(1)(c)(iii)</b> <b>Does the requested variance meet the following standard:</b>	<b>18.18(C)(2)a.ii.</b> Front-yard setback
<b>The practical difficulty exists because of physical conditions such as narrowness, shallowness, shape, or topography of the property involved.</b>	<b>YES</b>
<i>The applicants state they are unable to locate the garage in another location due to the topography of the property. The property does slope downward behind the house and there is a swale that starts to the east of the proposed garage location. The property is not shallow, narrow, or of an unusual shape. There is a large wetland area located in the eastern portion of the property. However, the ZBA may make different findings following a public hearing.</i>	<b>BURCH DROLETT SMITH HODGES DARNELL</b>
Notes:	

<b>Unreasonable Burden 4.05(C)(1)(d)</b> <b>Does the requested variance meet the following standard:</b>	<b>18.18(C)(2)a.ii.</b> Front-yard setback
<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>
<i>The zoning ordinance requires detached accessory buildings in front yards to be at least 200 feet from the road right-of-way. For this property, that distance is not possible. The zoning ordinance would permit a garage to be located in the side yard. This would require locating the proposed garage roughly 15 feet to the east. This would require additional grading work. The ZBA should determine if that grading work is considered unreasonably burdensome. However, the ZBA may make different findings following a public hearing.</i>	<b>BURCH DROLETT SMITH HODGES DARNELL</b>
Notes:	

<p><b>Minimum Variance Necessary</b> 4.05(C)(1)(e) <b>Does the requested variance meet the following standard:</b></p> <p><b><i>The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.</i></b></p> <p><i>The requested variance would place the proposed garage in front of the required setback for primary structures in the Rural Residential District. It appears to be the minimum necessary to locate the garage in the front yard without requiring any grading work for a swale in the side yard, north of the home. However, the ZBA may make different findings following a public hearing.</i></p> <p>Notes:</p>	<p><b>18.18(C)(2)a.ii.</b> Front-yard setback</p> <p><b>YES</b></p> <p><b>BURCH DROLETT SMITH HODGES DARNELL</b></p>
<p><b>Adverse Effect</b> 4.05(C)(1)(f) <b>Does the requested variance meet the following standard:</b></p> <p><b><i>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.</i></b></p> <p><i>The proposed location for the garage is relatively-well screened from the roadway and the adjacent property to the north. Even though the proposed location is significantly closer to the roadway than allowed, there are very few homes on this road past this property. However, the ZBA may make different findings following a public hearing.</i></p> <p>Notes:</p>	<p><b>18.18(C)(2)a.ii.</b> Front-yard setback</p> <p><b>YES</b></p> <p><b>BURCH DROLETT SMITH HODGES DARNELL</b></p>
<p><b>Intent of the Ordinance</b> 4.05(C)(1)(g) <b>Does the requested variance meet the following standard:</b></p> <p><b><i>The variance will be in harmony with the general purpose and intent of this Ordinance.</i></b></p> <p><i>The proposed detached garage use is consistent with the zoning ordinance. The proposed location of the garage is much closer than what the zoning ordinance allows. The location of the property near the end of the street and the extent of screening around the proposed garage are likely to reduce any negative impacts to the surrounding properties or the public in general. However, the ZBA may make different findings following a public hearing.</i></p> <p>Notes:</p>	<p><b>18.18(C)(2)a.ii.</b> Front-yard setback</p> <p><b>YES</b></p> <p><b>BURCH DROLETT SMITH HODGES DARNELL</b></p>

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

Motion by Drolett, supported by Burch to grant a variance for 12521 McKinley Heights, 04-32-400-015, to allow for a reduction of a front yard setback from 200 feet to 25 feet, to construct a 24' x 30' accessory structure. There will not be an additional driveway added on McKinley Heights Court, and the trees surrounding the proposed structure be left intact. Drolett amended his motion, supported by Burch to add that the height of the garage can be no higher than 16 feet 6".

Roll Call Vote:

**Burch YES                  Drolett YES          Smith YES                  Hodges YES          Darnell YES**

**Motion Carried**

<b>Action Item: # 2</b>
<b>Appeal Number: 12-ZBA-763</b>
<b>Applicant Name(s): Inverness Inn</b>
<b>Property Tax ID: 04-18-463-002/023/029</b>
<b>Address:</b>
<b>Purpose of Variance Request: Extension of approved variances</b>

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

**Zoning Report**

Report, dated July 7, 2013, was summarized by Zach Michels, and will be placed in the property file in its entirety.

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

Michels confirmed that there was a resolution approving the variances a year ago.

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

Penny Dec was present from the Inverness Inn. Explained to the Board that they were waiting for an approved site plan from the Planning Commission that is why they needed a extension.

The ZBA was concerned that the project was not going to be completed on a timely basis. Ms. Dec assured them that as soon as they could get the contractors that it would be finished.

**Public Hearing:**

Indicated that there were no letters from neighbors on record.

Doug Houk – 14005 N Territorial

Would like to make a statement regarding the lighting at Inverness Inn. The lighting issue was discussed at the last Planning Commission meeting and the lights are still not being shut off. Chairperson Darnell explained that the Planning Commission was the body to discuss those issues with.

**ZBA Deliberations:**