



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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DONALD DARNELL,
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VICE CHAIR

JAMES DROLETT,
SECRETARY
STEVE BURCH
BETH FILIP

JAMES CORMIER, ALT.

JANIS MILLER, ALT.

DENETTE BOLYARD,
RECORDING SECRETARY

REGULAR MEETING MINUTES OF THE ZONING BOARD OF APPEALS

Wednesday, May 6, 2015

Members present: Chairperson Donald Darnell, Brook Smith, Vice Chairperson, Jim Drolett, Secretary, Steve Burch, Planning Commission Representative, and Beth Filip.

Absent:

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

- I. Call to Order:** The meeting was called to order by Chairperson Darnell at 6 p.m.
- II. Pledge of Allegiance:** Chairperson Darnell led the Pledge of Allegiance to the Flag.
- III. Approval of Agenda:** Chairperson read the proposed agenda.

Moved by Drolett, **seconded** by Burch to approve the agenda as amended to add elections of officers.

Motion carried by voice vote.

- IV. Public Comment- Non Agenda Items:** None

V. Action Items:

Action Item: #1

Elections-

A motion was made by Drolett and seconded by Smith to elect Don Darnell as Chairperson, Brook Smith as Vice Chairperson, Jim Drolett as Secretary.

Motion carried by voice vote:

Action Item: # 2
Appeal Number: 15-ZBA-802
Applicant Name(s): Toth
Property Tax ID: 04-18-133-002
Address: 13741 North Lake

Purpose of Variance Request: Deck Addition. To reduce front-yard (water) setback of twenty-two point five (22.5) feet rather than the fifty (50) feet required.

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 April 22, 2015, was summarized by DPZ Zach Michels and will be placed in to the record.

Q & A with DPZ, Michels:

Smith asked DPZ Michels why the applicant needed a variance since he already had a set back of 22.5. (Same distance to the existing shed). Michels replied because it would create a change of elevation or footprint.

Drolett asked if we received any letters in opposition to the variance request. Michels said no we did not.

Applicant Presentation and Q & A with the ZBA:

Applicant, Marc Toth, was present to answer any questions the Board may have.

Darnell asked why he did not build the deck the last time he was granted a variance. Toth replied that he just chose not to. He put in a patio instead. This deck that he is requesting a variance for is much smaller than what was requested the last time.

Burch asked the applicant if he was planning on putting steps on this patio. The applicant asked if he would need a variance to put steps on. Michels said yes, if it protruded past the approved setback. Toth said he did not plan on putting steps on.

Public Hearing:

Indicated that there was a letter from Mary Frisinger, in support of variance, which was read aloud by DPZ Michels.

No other comments from the public.

ZBA Deliberations: Discussion took place and the Board confirmed what the applicant was constructing and there were no further concerns.

Standards of Review

<p>(1) Practical Difficulty 4.30(C)(1) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3)a/ 18.23(B) Front-yard (Water)</p>
<p><i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i></p>	<p><u>YES</u> Drolett Burch Filip Smith Darnell</p>
<p><i>Because of the shallow depth of this lot, measuring roughly 60 feet between the right-of-way and the water's edge, the front-yard and waterbody setbacks overlap, making it impossible to construct anything on the property in a manner consistent with the Zoning Ordinance standards. However, the ZBA may make different findings following a public hearing.</i></p>	
<p>Notes: Smith – because strict application of this ordinance saying you couldn't build this deck would be telling someone that they couldn't build a deck with the same setbacks from the waters edge to the house which already exists.</p>	

<p>(2) Physical Conditions 4.30(C)(2) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3)a/ 18.23(B) Front-yard (Water)</p>
<p><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></p>	<p><u>YES</u></p>
<p><i>The shallow depth of this lot makes it difficult to construct any structure on the property. There are several other lots adjacent to this property that have similar a similar shallow configuration. The majority of lake lots, however, are generally deeper than these ones.</i></p>	<p>Drolett Burch Filip Smith Darnell</p>
<p>Notes: Drolett- With the existing setbacks you wouldn't be able to build any house on this lot. Or at least a very small house. Darnell- Very small and reasonable deck.</p>	

<p>(3) Self-Created 4.30(C)(3) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3)a/ 18.23(B) Front-yard (Water)</p>
<p><i>The practical difficulty is not self-created.</i></p>	<p><u>YES</u></p>
<p><i>The applicant does not appear responsible for the configuration of the property. This property and the adjacent properties were created prior to the adoption of zoning in the Township.</i></p>	<p>Drolett Burch Filip Smith Darnell</p>
<p>Notes:</p>	

<p>(4) Reasonable Amount Necessary 4.30(C)(4) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3)a/ 18.23(B) Front-yard (Water)</p>
<p><i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i></p>	<p><u>YES</u></p>
<p><i>While the proposed deck is over 16 feet wide, it will only be four feet deep. This is a relatively shallow depth for a deck.</i></p>	<p>Drolett Burch Filip Smith Darnell</p>
<p>Notes: Burch- not exceeding any elevation lines that currently exist or increasing the footprint.</p>	

<p>(5) Public Health, Safety, and Welfare 4.30(C)(5) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3)a/ 18.23(B) Front-yard (Water)</p>
<p><i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i></p>	<p><u>YES</u></p>
<p><i>The proposed deck does not appear to have a negative effect on public health, safety, or welfare; it is not located in an area that could be affected by or affect traffic or first responder operations. In fact, it may make it easier for occupants of the building to exit in case of emergency.</i></p>	<p>Drolett Burch Filip Smith Darnell</p>
<p>Notes:</p>	

<p>(6) Adverse Effect 4.30(C)(6) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3)a/ 18.23(B) Front-yard (Water)</p>
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Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	<u>YES</u> Drolett Burch Filip Smith Darnell
<i>The proposed deck does not appear to negatively impact the use or value of adjacent properties. The deck would be located in an area that already has a structure below, and it does not appear likely to block any significant views.</i>	
Notes: Darnell – No evidence that the deck would have any negative impact to adjacent properties or to the area.	

(7) Intent of the Ordinance 4.30(C)(7)	12.02(E)(3)a/ 18.23(B)
Does the requested variance meet the following standard:	Front-yard (Water)
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Drolett Burch Filip Smith Darnell
<i>Approval of the request variance appears to be consistent with the intent and purpose of the Zoning Ordinance to allow for a reasonable use of property in a manner that does not create a significant negative impact on the community or surrounding properties.</i>	
Notes:	

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

A motion was made by Smith, seconded by Filip, to approve the variance as requested to allow for a 22.5’ front-yard (waterbody) setback.

Roll Call Vote:

Yes- Drolett, Yes- Burch, Yes-Filip, Yes-Smith, Yes-Darnell

Motion Carried.

Action Item: # 3
Appeal Number: 15-ZBA-803
Applicant Name(s): Vogan
Property Tax ID: 04-02-402-024
Address: 9730 Dexter Pinckney Rd.

Purpose of Variance Request: New detached accessory building. Increased lot coverage for accessory building of one thousand seven hundred eleven (1,711) square feet rather than the one thousand (1000) square feet allowed.
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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 April 22, 2015 was summarized by DPZ Zach Michels and will be placed in to the record.

Q & A with DPZ, Michels:

Darnell asked how big the lot was. Michels, 1.15 acres. Roughly 50,000 square feet.

Drolet asked the measurements of the proposed accessory structure. Michels replied that it was 30 x 34 with a 1 ½ foot overhang.

Smith asked Michels to elaborate on the limitation on building a attached structure. If the applicant were to try to build this structure as an attached structure he could only construct it 80 feet from the right of way? Michels said yes, because he would be changing the elevation and footprint at that point.

Applicant Presentation and Q & A with the ZBA:

Mr. Vogan was present and commented on his variance request. He stated that he was not responsible for the barn that is currently there and that he is requesting to be allowed to put more than a 1,000 foot accessory structure. He indicated that he does not want to tear down the barn as he feels it is a historical structure. There was also a structure located on the same place as he was requesting, however, does not know the year that it was there or tore down. There is three different groups of trees and or shrubbery and only has plans of removing one set of shrubs.

Drolet asked if the concrete pad that is there was a single or double wide slab. Mr. Vogan stated a single slab and he would have to expand it. Drolett asked if he could move the proposed structure back toward the existing barn. Mr. Vogan said he could maybe move it back another 5 feet.

Darnell asked the applicant what was it about the property that constitutes a practical difficulty. Darnell explained, and gave an example, to the applicant what a practical difficulty was. Mr. Vogan stated that the practical difficulty was that he wasn't responsible for the current barn being there.

Burch asked the applicant if the barn was registered anywhere in historical places? Mr. Vogan said, not that he was aware of.

Public Hearing:

Indicated that there were no letters from neighbors on record.
No other comments from the public.

ZBA Deliberations:

Darnell stated that he could not find anything that pertained to the land that constituted a practical difficulty.

Smith concurred with Darnell.

Filip said that the Zoning Ordinance has certain standards for a reason, such as stormwater run off etc.

Standards of Review

(1) Practical Difficulty 4.30(C)(2)	18.18(D)(1) Accessory Building
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Does the requested variance meet the following standard:	Lot Coverage
The strict application of the terms of this Ordinance would constitute a practical difficulty.	<u>NO</u>
<i>It appears possible to continue to use this property without a variance for accessory building lot coverage. It may be difficult to add garage area of the desired size.</i>	Drolett Burch Smith Filip Darnell
Notes: Has not demonstrated a practical difficulty	

(2) Physical Conditions 4.30(C)(2) Does the requested variance meet the following standard:	18.18(D)(1) Accessory Building Lot Coverage
The practical difficulty is due to some physical condition peculiar to the property involved.	<u>NO</u>
<i>The limitation on the size of accessory buildings is related to the property size. This property has a lot area of 1.15 acres, which is larger than the 0.5 acre required in the Lake Residential (LR) Zoning District. If the lot were larger, it would be possible to construct larger accessory building.</i>	Drolett Burch Smith Filip Darnell
Notes: Without identifying a practical difficulty you cannot identify a physical condition.	

(3) Self-Created 4.30(C)(3) Does the requested variance meet the following standard:	18.18(D)(1) Accessory Building Lot Coverage
The practical difficulty is not self-created.	<u>NO</u>
<i>The applicant does not appear to be responsible for the size of the property or the existence of the older accessory building.</i>	Drolett Burch Darnell
Notes:	<u>YES</u> Smith Filip

(4) Reasonable Amount Necessary 4.30(C)(4) Does the requested variance meet the following standard:	18.18(D)(1) Accessory Building Lot Coverage
The variance is a reasonable amount necessary to mitigate the practical difficulty.	<u>NO</u>
<i>It appears possible to provide some relief with a smaller accessory building. The total accessory building lot coverage is 1,711 square feet, but the proposed accessory building itself is roughly 1,221 square feet. However, the ZBA may make different findings following a public hearing.</i>	Drolett Burch Smith Filip Darnell
Notes: There is no practical difficulty	

(5) Public Health, Safety, and Welfare 4.30(C)(5) Does the requested variance meet the following standard:	18.18(D)(1) Accessory Building Lot Coverage
Approval of the variance will not be injurious to the public health, safety, and welfare.	<u>NO</u>

<i>The proposed garage would be closer to the front lot line and Dexter-Pinckney than a primary structure or addition, but it is consistent with the Zoning Ordinance. It does not appear to create a significant impact on public health, safety, or welfare.</i>	Drolett Burch Filip <u>YES</u> Smith Darnell
Notes: Burch - If the variance was approved it would not be injurious to the public health, but am not inclined to approve without a practical difficulty being identified.	

(6) Adverse Effect 4.30(C)(6) Does the requested variance meet the following standard:	18.18(D)(1) Accessory Building Lot Coverage
Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	<u>YES</u>
<i>The proposed garage does not appear to have a significant impact on the adjacent properties or area. Because of its size and location relatively close to the road, some landscaping treatment may be necessary to soften the impact.</i>	Drolett Burch Smith Filip Darnell
Notes:	

(7) Intent of the Ordinance 4.30(C)(7) Does the requested variance meet the following standard:	18.18(D)(1) Accessory Building Lot Coverage
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>NO</u>
<i>Approval of a variance to allow for an increased lot coverage that would allow for the continuation of the existing, historic accessory building appears consistent with the intent and purpose of the Ordinance to allow for continued use. Approval of a variance to allow for an increased lot coverage of the proposed garage appears inconsistent with the intent of limiting the size of accessory structures based on the property size.</i>	Drolett Burch Smith Filip Darnell
Notes: Darnell - Intent of the Ordinance is very clear.	

Chairperson Darnell declared all of the Standards of review have not been met.

A motion was made by Smith, seconded by Filip to deny the variance as requested.

Roll Call Vote:

Yes- Drolett, Yes- Burch, Yes-Filip, Yes-Smith, Yes-Darnell

Motion Carried Variance Denied

VI. Approval of Meeting Minutes:

Motion by Drolett, **seconded** by Smith approve the minutes as amended.

Motion carried by voice vote.

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

DPZ Michels informed the Board that the Ordinance Officer, Bart Hamilton recently retired and a new planning intern Miker Auerbach was hired to help. The Board is in the process of possibly hiring a new Ordinance Officer.

VIII. Adjournment

Chairperson declared the meeting adjourned at 7:25 p.m.

Respectfully submitted,

DeNette Bolyard,
Recording Secretary

James Drolett,
Secretary

Approved July 7, 2015