



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING MINUTES OF THE ZONING BOARD OF APPEALS

Thursday July 6, 2017

Members present: Vice-Chairperson Beth Filip, James Drolett, and Bill Gajewki.
Absent: Brook Smith, Chair and Jay Holland, Secretary.

Also present: Zach Michels, Director of Planning and Zoning (DPZ), Janis Miller, Recording Secretary, and members of the public.

- I. **Call to Order:** The meeting was called to order by Vice-Chairperson Filip at 6:03 p.m.
- II. **Pledge of Allegiance:** Vice-Chairperson Filip led the Pledge of Allegiance to the Flag.
- III. **Approval of Agenda:**
Moved Drolett, seconded by Gajewski, to approve the agenda as read.
Motion carried by voice vote.
- IV. **Public Comment- Non-Agenda Items:** None

Chairperson Filip addressed both applicants with the statement that there were only three (3) of the five (5) ZBA members present, meaning they would need a unanimous vote of all three to grant their appeal, and they might have a better chance with a full Board. Ms. Filip stated that the applicants could postpone before their case was heard, or the meeting could proceed up to the point prior to ZBA member deliberations, and then they could request postponement. Both applicants indicated they would like to proceed.

V. Action Items:

1. Introduction of the case:

Action Item: # 1
Appeal Number: (17-ZBA-831ABC) Bieske
Applicant Name(s): Donald & Nancy Bieske
Property Tax ID: (D-04-02-401-019, D-04-02-403-002)
Address: 9586 Winston
Purpose of Variance Request: <i>A) Reduced front-yard (street) setback of twenty-two point seven (22.7) feet rather than the twenty-five (25) feet required; B) Reduced waterbody setback of twenty-four (24) feet rather than the fifty (50) feet required; and C) Reduced rear-yard setback of five (5) feet rather than the thirty (30) feet required.</i>

2. Report from the Director of Planning & Zoning:

DPZ Michels summarized the staff report, dated June 30, 2017, noting that due to a fire there was a complete loss of residence, and the applicants wished to construct a new, two-story, single-family house with attached porch and multi-level deck. The requested reduced setback from Winston was for the porch overhang. The waterbody setback from Portage Lake was measured to the deck (upper and lower level between the house and lake), and noted there is a gap between the rear lot line and the water's edge. The applicants are working to gain ownership of the gap between their property and the water's edge. The applicant has contacted staff to indicate that the water-front deck will be 8 feet deep instead of the 10 feet shown in the submitted plans. Lot coverage with the proposed house would be 32.6 percent. Applicant now needs an additional variance or wait until the Zoning Ordinance changes. Impervious coverage is greater than 20 percent (20%) requiring approval and installation of a storm water management plan.

3. Zoning Board of Appeals Q & A with the Director of Planning & Zoning:

Gajewski: In the staff report, page 1-7, there is a list of potential conditions. Regarding the grade changes, our Ordinance Article 24 Environmental Standards, §24.02(D)(3) Elevation Restrictions specifically states, "filling a parcel of land to an elevation above established grade of adjacent developed land is prohibited without the expressed written approval of the County Drain Commission, and approval by the Planning Commission." There is a soil erosion permit out there currently, but I'm not sure it was in place previously.

DPZ Michels: There have been no permits, other than the soil erosion permit (issued by Chelsea Area Construction Agency 10/21/16), that have been secured. You can change grades within the property, but you have to maintain your runoff water as it was before. At issue is when it's right at the lot line.

Gajewski: It's at the lot line, the water's edge, with railroad ties and blocks right to the water's edge. It has been raised significantly.

DPZ Michels: With the new construction, this is the time to take a look at it.

Gajewski: Another issue is with the decks. The second-story deck is rather large, 10 feet by 18 feet? Is that the minimum necessary for reasonable use? As to the first-floor deck, the neighbors are concerned with the lake view, and I'm concerned with that also. The first-floor deck is 10 feet by 35 feet with a 6 foot by 8 foot extension. Again, is that the minimum necessary for reasonable use? What existed initially?

DPZ Michels: The applicant has said the decks will be reduced to eight feet wide. We no longer consider what was there previously as this is new construction. The height of the house twenty-eight (28) feet from the grade adjacent to the house, which meets the Zoning Ordinance.

Drolett: If part of the conditions was to remove the berm, then the height measurement would have to change. They may have measured from a lower level.

DPZ Michels: Or they will have to shrink the crawl space to maintain the same height. It's my understanding they intend to have utilities in that space.

Gajewski: It looks like it isn't a crawl space; the plans show it as six (6) foot tall. They have stairs going down to the lower level, so in essence it's a three-story house.

Drolett: Zach, is it your interpretation that since the new house is going to be different than the other house he needs the variances?

DPZ Michels: Correct.

Drolett: Page 1-6 of the staff report, the minimum lot area required is 21,780 sq. feet, is the existing 12,165 sq. feet both lots, or just the lakefront lot?

DPZ Michels: That is the entire property. This is a peculiar property as it consists of two parcels that are at a weird angle. There is an access easement that is not part of the calculation.

Drolett: Is the boulder wall in the right-of-way?

DPZ Michels: Yes. Washtenaw County Road Commission has control of that right-of-way.

Gajewski: What is projecting further into the viewshed than the home that burned down?

DPZ Michels: Based on the information in our files, there is no record of a second story deck on the previous home. The house that existed previously, which the Zoning Board of Appeals approved, was for a single-story house. We didn't find any records of zoning permits for a porch on that (lake) side of the house. The previous variance, (09-ZBA-719) Bieske, was for a reduced (street) front-yard setback of 21 feet, a reduced waterbody setback of 30 feet, and a reduced rear-yard setback of 14 feet.

Drolett: Was that reduced waterbody setback of 30 feet to the house?

DPZ Michels: We measure to anything attached to the house. The zoning permit from (10-ZP-4924) doesn't show an attached deck or porch.

Drolett: Even with an eight (8) foot deck, the house would have to be thirty-six (36) feet from the lake.

Filip: Just to verify, because this is new construction, all the old variances disappear?

DPZ Michels: If they build exactly what was there, within the building envelope, they would have rights to those legal nonconformities. The plans that were submitted were with the previous variance and zoning permits [without porches], and the numbers don't match.

Gajewski: What about the zoning violations that haven't been taken care of? Dexter Township Zoning Ordinance §18.13 Maintenance of Junk Prohibited, there's a lot of stuff out there. There are several blight violations. Have they been taken care of?

DPZ Michels: They are in process with the Court to clear some of those. There are still some outstanding ones.

Filip: There is an on-going Court proceeding to address this?

DPZ Michels: Correct.

Drolett: Zach, have you given any thought as to how a storm water management plan could be designed on a property with the hills on the sides and the rear?

DPZ Michels: There are several ways you can do it. The applicants previously, as part of permit (10-ZP-4924), had met the storm water management plan that was approved by the Township engineer. Our records indicate that it was never fully inspected by them so when the house burned down, we refunded the deposit for the inspections. The majority of the storm water is going to be directed into an old septic system, under the berm in the front. The property immediately to the south, which was recently rebuilt, installed French Drains.

4. Applicant presentation and Q&A with the Zoning Board of Appeals:

Mr. Bieske: We have been under the impression we are building the exact same home. We figured we would ask to add some things, as we were building, rather than adding them at a later date. What we want to do is: 1) add an additional porch and overhang on the front (roadside) of the house, which requires a variance due to overhang restrictions; 2) convert the upper latticework structure on the lakeside porch to a walkout from the upstairs, which requires a variance due to frontage restrictions; 3) construct an overhang over the pre-existing front porch, which requires a variance because of overhang restriction; and 4) finish the dormers on the outside that were designed into the original truss plans. All the rooms will remain the same size as previous to the fire. The hallway will increase a small amount [Note: Mr. Bieske letter of July 4, 2017, "Same footage and room sizes. Two feet was added to 21 feet of the North West portion of the foundation."] for handicap accessibility. The original house was a tri-level which we would like to make it all one level for ease of construction, cost savings, and handicap accessibility. The depth of the rear porch has been reduced to eight (8) feet, and the south side walk was eliminated to reduce the footprint. With the addition of the lake front property (the gap between the rear lot line and the water's edge) the lot coverage would be about twenty-eight (28%) percent. [Note: the maximum lot coverage in Lakes Residential (LR) Districts is twenty-five (25%) percent.]

Drolett: Is the foundation, the footprint, the same as what was there?

Mr. Bieske: Zach said we could move the northwest wall over to widen the hallway. We're moving the footings over slightly (2 feet) so we can widen the hallway inside the house. The only thing we are changing is the hallway; everything else is exactly the same.

Filip: You mentioned in your presentation that it used to be a tri-level home, and now you are trying to get it to a single level home. It is a different home but in the same envelope?

Mr. Bieske: We are willing to pull it back to the original footing measurements and do away with the handicap hallway.

Filip: Zach, if they simply rebuild what is on paper, would they need any variances?

DPZ Michels: No. This is not a question of whether or not this is a new structure, or the old structure, that would be an appeal of decision application. I've made the determination these plans constitute a new building.

Filip: Mr. and Mrs. Bieske, just so you understand what Zach has on paper is what has to be built (without variances).

Mr. Bieske: We were of the impression that if we bumped out the wall it would still be classified an original home.

DPZ Michels: My impression was that the applicants asked if they could make the hallway wider. I did not expressly say they could bump out the walls, but if they could do that and stay under the same coverage, and meet the current Zoning Ordinance standards, that's how the Zoning Ordinance works.

Drolett: Which footing are you moving?

Mr. Bieske: The roadside footing. It's more than fifty (50) feet from the lake, and more than twenty-five (25) feet from the road.

Drolett: The reason you need the variance, from that roadside setback, is because the overhang is counted.

Mr. Bieske: Yes. We were under the impression we were getting a variance for the roadside overhang and a variance for the lakeside walkout deck that had a latticework structure to provide shade.

Filip: Zach, under the new ordinance, not that it sheds light on our decision tonight, what is the status concerning roadside overhang?

DPZ Michels: According to the State Zoning Enabling Act, future ordinances are not considered as part of a decision. No one knows what a legislative body will do until a final vote is cast [Planning Commission currently reviewing a new Zoning Ordinance].

Mr. Bieske: With regards to lowering the berm. When my Dad built the house, the land was low which made the water in front of the house extremely dirty. We added three feet to the grade and put in a double septic tank.

Filip: It appears to me that the grade on the front of the house is extremely close to that raised up berm, the boulder wall.

Mr. Bieske: When the house was built there was a lot of runoff. What was needed was to put up a wall (to protect the septic field) supported by rocks that go up about three feet.

Gajewski: With the septic field no longer needed, lowering the grade would protect the neighbors from runoff and erosion.

DPZ Michels: And more handicap accessible.

Mr. Bieske: We're not willing to do that. Essentially, we're grandfathered in from the original building of the site.

DPZ Michels: To clarify, this is a variance request, not an appeal of decision.

Mrs. Bieske: It's my understanding we're not appealing a decision. We've spent a year dealing with the plans.

Mr. Bieske: As to the blight on the property, some of that deals with personal items.

Filip: The blight issues are being taken care of with the Court, and we're not here to discuss it, unless this board decides to put a condition on the appeal.

Drolett: I know you want to get started on your house. My concern is we have a three-person body here tonight and there is a variance that has to be addressed yet, that was not advertised (noticed) for tonight, lot coverage. I want to be fair to you, you are here in front of three persons tonight and when you come back you might be in front of five people. There also seems that there are measurement issues. My concern is that if this body grants you a variance for a setback and we find that the measurements aren't accurate, you will have to come back again. I want to get this wrapped up in one shot so you can get started building your house.

DPZ Michels: The ZBA can look at all three variance requests separately.

Mrs. Bieske: Let me explain why we went this route. It's our understanding we will never be able to build the original house; they have no records of us having porches, so we have to go through some of the variance (like the front variance). If we have to grade the house, I lose my laundry room, my furnace and water heater, which then changes the space upstairs.

Gajewski: Can you share pictures of the previous house?

DPZ Michels: Again, this is an appeal of decision. There is a difference between a structure that was there and a structure that was legally there.

Drolett: The previous setback was thirty (30) foot and now they want a twenty-four (24) foot setback. Does that include the 8 or 10 foot deck? With the 8-foot-wide deck, that makes it a twenty-six (26) foot setback.

Mr. Bieske: The four things I've outlined are not critical to building the house. We just thought that since we are building a new structure we would add them. We can do away with them, and address the Board at a later date for those.

Filip: I'm going to ask you again. Do you want to go forward tonight with only three of us here?

Mr. Bieske: Yeah, sure. Someone said it's a new house, we're under the impression we're rebuilding the old house. Is it changing to a new house position?

Filip: It is a new house because you wouldn't be building what we have on paper.

Drolett: We're in a situation where we know you want to put a deck on. Do we set the front yard (waterbody) setback variance considering the deck, or do we set it not considering the deck?

Mr. Bieske: The thirty-two (32) foot setback from the lake was originally established with construction of the house in the 80's. My father and I were given a variance. The footings stay in the same location.

DPZ Michels: A reminder, this is a variance for a new structure, not an appeal of decision regarding status of legal nonconformities.

Drolett: We don't have to consider that thirty (30) foot setback. Under the Ordinance (§19.04(B)(1)) it says: "Where such construction does not result in a change in the structure's foundation footprint, elevation profile, or square footage, as it existed prior to being destroyed." You are changing an elevation and changing the profile, so that means the whole structure is subject to variances.

Mr. Bieske: We'll have to read through the whole thing and resubmit it for the structure that was built.

Filip: Given the incongruities that we are seeing right now, how does the Board feel about proceeding?

Drolett: I'm not sure what we should do as far as the lakeside, front yard setback.

DPZ Michels: To clarify the numbers, the waterbody setback of twenty-four (24) feet, that would actually be twenty-six (26) feet measured to the edge of the deck. The wall of the house would be eight (8) feet past that. The rear-yard setback would be seven (7) feet to the deck and then fifteen (15) feet to the wall.

Filip: Lot coverage is not an issue before us right now?

DPZ Michels: Correct.

Filip: We have the three variance requests before us now.

5. Open Public Hearing on agenda item: 7:07 p.m.

Reading of letters into the record: Communications received from Donald & Esther Gibb, 9620 Winston; Kelli Peters Family, 9580 Winston; Janet Bowles, 9574 Winston; Michael & Harriette Ehnis, 9568 Winston; and Bob & Kathy Lane, 9558 Winston.

Comments from public in attendance:

Esther Gibb, 9620 Winston

Concerned with the added elevation of the Bieske property, causing erosion to pile dirt on her property. Mrs. Gibb provided ten photographs of the erosion onto her property.

Kelli Peters, 9580 Winston

Concerned with access issues backing out of her driveway, due to the overgrowth on Bieske's back lot, and access to the power pole. She stated that the old house was not that much closer to the lake than hers but the new house, positioned closer to the lake, would interfere with her enjoyment of lake living.

6. Close Public Hearing on agenda item: 7:14 p.m.

Chairperson Filip asked the Bieske's if they wanted to continue with only three Zoning Board of Appeal members present. Ms. Filip reminded them that they needed a majority of the board (5 members) voting in their favor but with only 3 members present, one "no" vote and the appeal would be denied.

Mr. and Mrs. Bieske agreed they wished to proceed with the three ZBA members.

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

Gajewski: The variances are A) front-yard twenty-two point seven (22.7) feet; B) twenty-six (26) feet; and C) rear-yard is?

DPZ Michels: They said they have changed the plan so B was noticed at twenty-four (24) feet and it's now twenty-six (26) feet, due to the shorter depth of the deck. The rear-yard (C) was advertised at five feet and now its seven feet setback. The actual wall of the house is back eight feet farther.

Drolett: We would be approving the deck also?

DPZ Michels: Correct.

Gajewski: One of the potential conditions is elimination of the second story deck.

DPZ Michels: The reason for that is the extra bulk may be different than the ground level deck. The second story deck doesn't contribute to exiting the house in an emergency.

Drolett: This is one of those rare opportunities to correct things done in the past. I agree with the condition to remove the stone wall/embankment as they don't need it anymore as they have a sewer connection.

Gajewski: I think there is another way to deal with headlights and dust from the road other than raising the grade and causing erosion onto his neighbor's property, creating problems. I think all the proposed conditions have merit; they represent the DPZ's concerns as well as the concerns of the ~~applicant~~ neighbors.

Filip: My concern is the deck extends ~~intensively~~-extensively into the viewshed. Preservation of the view of the lake is a concern of mine.

Drolett: It's a combination of things. The house is being designed for a berm that isn't necessary anymore. Therefore, the deck, instead of being eighteen inches off the ground, is eight to ten feet up off the ground. One problem creates another problem and another problem.

Filip: I noticed a deck on the back of the house. We've often said that decks are a part of lake living.

Gajewski: When the grade is lower, the first-floor deck would be less intrusive.

DPZ Michels: We actually have a different standard for a deck that is at surface conditions. Those can actually be thirty-five (35) feet from the water.

Drolett: I'm concerned with the whole thing. Mr. Bieske doesn't want to do what the recommended potential conditions are, which puts us in a position of turning it down, or tabling it and letting him come back with a different plan that doesn't have the problems noted. Instead of fitting the house to the hill, let's fit the hill to the house. As long as he is not asking for greater setbacks.

Filip: The applicant has indicated they wish to move forward so the only way to postpone this would be on a motion.

Drolett: I make a motion to postpone this for the reason that listening to our conversation, I don't think Mr. Bieske would go along with the conditions we impose. If we grant the variance, then we've back doored the conditions we want to put on. I'd like to see a different way to do this.

DPZ Michels: The Zoning Enabling Act does allow the Planning Commission and Zoning Board of Appeals to place safeguards and conditions on approval, without the consent of the applicant.

Drolett: My concern is, if we put those conditions on and he goes along with the conditions, he gets rid of the hill, one on the south side and the one on the road side; he starts off with a nice level site, now the house may exceed the maximum house height because you're going to measure it differently. Then he has to come back for that.

DPZ Michels: He has two extra feet. The house is measured now from the adjacent grade at twenty-eight (28) feet high. The applicant's house is not close to the side-yard setback, so the extra two feet wouldn't put that in peril. Same thing with the lot coverage. The variances are for the different setbacks and there are several ways they could remedy that.

Drolett: I will withdraw my motion to postpone.

Filip: I propose adding a condition that the deck will not change into anything else; it not be enclosed or covered, it remain open and uncovered. Let's clarify condition #7 that there shall not be a second story deck.

Gajewski: I agree, there should not be a second story deck that will block the viewshed.

Drolett: The front-yard we're talking twenty-two point seven (22.7) feet? We have two rear-yard setbacks.

Filip: One more potential condition; the front yard setback from the street remain an overhang and the wall twenty-five (25) feet. I want it to remain an overhang, a soffit.

DPZ Michels: Condition 13: the front-yard setback is for the overhang only; the wall shall be at least twenty-five (25) feet from the right-of-way.

Standards of Review:

(1) Practical Difficulty 4.30(C)(1) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard
The strict application of the terms of this Ordinance would constitute a practical difficulty.	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip
<u>DPZ Comment:</u> The buildable area of the lot is roughly 35 feet deep by 67 feet wide, allowing a buildable area of roughly 2,345 square feet. A single-family house with a lot coverage of that size would be similar in size or larger than most of the houses in the surrounding houses. It appears possible to reduce the length of the overhang or reconfigure the porch and still meet the front-yard setback. If the house were reconfigured within the lot, it appears possible to build a house on the property without requiring variances from the required rear-yard or waterbody setbacks.	NO None	NO None	NO None
Notes:			
(2) Physical Conditions 4.30(C)(2) Does the requested variance meet the following standard:	A	B	C
18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard	
The practical difficulty is due to some physical condition peculiar to the property involved.	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip
<u>DPZ Comment:</u> The property has an unusual shape, with a portion of it extending across a private access easement towards Dexter-Pinckney. The "lakefront" portion of the property is larger than most of the properties to the south and similar in size to several properties to the north. The front lot line is peculiar, as it bends along Winston.	NO None	NO None	NO None
Notes: Gajewski – The practical difficulty is the unusual, irregularly shaped lot, including the peculiar front line along Winston Drive. Filip – For the same reasons Bill noted.			
(3) Self-Created 4.30(C)(3) Does the requested variance meet the following standard:	A	B	C
18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard	
The practical difficulty is not self-created.	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip
<u>DPZ Comment:</u> The applicants do not appear responsible for the size or configuration of the lot. They wish to use the footings of the previous house for the proposed house; they were responsible for additions made to the previous house.	NO None	NO None	NO None
Notes: Drolett – As related to the lot size in particular. Gajewski – Agreed.			
(4) Reasonable Amount Necessary 4.30(C)(4) Does the requested variance meet the following standard:	A	B	C
18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard	
The variance is a reasonable amount necessary to mitigate the practical difficulty.	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip	YES Drolett Gajewski Filip
<u>DPZ Comment:</u> It appears possible to reduce the size of the overhang towards the street or reconfigure that porch to reduce or eliminate the front-yard (street) setback variance. The proposed 8 foot deep deck is relatively small in size. (The decks were originally proposed as 10 foot deep.) It appears possible to use the house without the proposed upper-level deck.	NO None	NO None	NO None
Notes: Gajewski – With the added conditions it meets the minimum necessary. Filip – The Chair agrees with Gajewski, with the addition of the conditions that have been discussed and will be added to the variance.			

(5) Public Health, Safety, and Welfare 4.30(C)(5) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard
Approval of the variance will not be injurious to the public health, safety, and welfare.	<u>YES</u> Drolett Gajewski Filip	<u>YES</u> Drolett Gajewski Filip	<u>YES</u> Drolett Gajewski Filip
<i>DPZ Comment: Approval of the requested variance for the front-yard setback does not appear to be injurious, as Winston is a local street with relatively low traffic volumes and speeds. If an appropriate storm water management plan is installed, it appears that the reduced waterbody setback would not be injurious.</i>	<u>NO</u> <i>None</i>	<u>NO</u> <i>None</i>	<u>NO</u> <i>None</i>
Notes: Filip - With the conditions that will be included, and attached to the variances.			

(6) Adverse Effect 4.30(C)(6) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard
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 Gajewski Filip	<u>YES</u> Drolett Gajewski Filip	<u>YES</u> Drolett Gajewski Filip
<i>DPZ Comment: The proposed house is taller than the previous house, and the grade has been raised, which would likely result in the house having a greater impact on the surrounding properties and the waterbody. The proposed house has a height, as defined by the Zoning Ordinance, of 28 feet. If the height of the mound is added to, the height of the house would be 32 feet. A taller house of this nature, closer to the street and to the waterbody, may have a negative impact on the surrounding area.</i>	<u>NO</u> <i>None</i>	<u>NO</u> <i>None</i>	<u>NO</u> <i>None</i>
Notes: Filip – Contingent on the fact that the conditions that have been placed on the property will be an improvement affecting the adjoining properties.			

(7) Intent of the Ordinance 4.30(C)(7) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	18.23(B) Rear-yard	12.02(E)(3)c Rear-yard
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Drolett Gajewski Filip	<u>YES</u> Drolett Gajewski Filip	<u>YES</u> Drolett Gajewski Filip
<i>DPZ Comment: The proposed single-family house use is consistent with the intent of the Lakes Residential (LR) District. If it is determined that a variance is necessary in order to make reasonable use of the property and that the other decision criteria above are true, then the variance would be consistent with the intent of the Zoning Ordinance.</i>	<u>NO</u> <i>None</i>	<u>NO</u> <i>None</i>	<u>NO</u> <i>None</i>
Notes: Gajewski – The applicant is going to put in a storm water management system to protect the water quality. Filip – In view of the conditions placed on the variances.			

8. Motion by the Zoning Board of Appeals:

Moved by Drolett, seconded by Gajewski, to grant variances: A) reduced front-yard (Winston) setback of twenty-two point seven (22.7) feet rather than the twenty-five (25) feet required, B) reduced waterbody (Portage Lake) setback of twenty-six (26) feet rather than the fifty (50) feet required, and C) reduced rear-yard setback (eastern lot line) of seven (7) feet rather than the thirty (30) feet required, noting these numbers are in line with the 8 foot depth deck rather than the 10 foot depth deck that was noticed for this hearing; for (17-ZBA-831ABC), property located at 9586 Winston, tax id (D-04-02-401-019, D-04-02-403-002), to Donald and Nancy Bieske, recognizing the nonconformities set forth on page 1-6 of the Staff report and with the following conditions: 1) A storm water management plan be approved by

the Township Engineer before issuance of a zoning permit; 2) The stonewall/embankment within the Winston right-of-way and private access easement shall be removed before issuance of a zoning permit; 3) All remaining blight violations on the property shall be removed before issuance of a zoning permit; 4) All remaining zoning violations on the property shall be removed before issuance of a zoning permit; 5) A silt fence shall be installed and maintained intact until the soil is fully stabilized with grass or other permanent landscaping; 6) The waterfront deck shall have a maximum depth of 8 feet; 7) There shall not be a second story deck; 8) The wall of the house shall be at least thirty-four (34) feet from the water's edge; 9) The wall of the house shall be at least fifteen (15) feet from the rear lot line; 10) This lot shall be regraded to make it more consistent in elevation with the adjacent properties; 11) All fences that were constructed without a zoning permit shall be removed; 12) Decks shall remain open and uncovered; and 13) The front-yard setback is for the overhang only, the wall shall be twenty-five (25) feet setback.

Roll Call Vote: Yeas- Drolett, Gajewski, and Filip: Nays- None: Abstain- None: Absent- Smith and Holland.

Item # 2:

1. Introduction of the case:

Action Item #2
Appeal Number: <u>(16-ZBA-832ABCDEFGH) Gleichert</u>
Applicant Name(s): Marc & Kimberly Gleichert
Property Tax ID: (D-04-01-385-011))
Address: 8761 Grove
A) Purpose of Variance Request: <i>A) Reduced side-yard (east) setback of six (6) feet rather than the seven (7) feet required; B) Reduced side-yard (west) setback of six (6) feet rather than the seven (7) feet required; C) Reduced side-yard (garage) setback of five (5) feet rather than the five point six (5.6) feet required; D) Increased accessory building wall height of eleven point five (11.5) feet rather than the six (6) feet allowed; E) Increased accessory building peak height of twenty-two point nine (22.9) feet rather than the eight (8) feet allowed; F) Increased accessory building coverage of seven hundred forty point two (740.2) square feet rather than the one hundred (100) square feet allowed; and G) Increased accessory building façade width of twenty-six point nine (26.9) feet rather than the ten (10) feet allowed.</i>

2. Report from the Director of Planning & Zoning:

DPZ Michels summarized the staff report, dated June 30, 2017, noting the applicants were requesting seven variances for a new two-story house and detached garage. The reason there are so many variances for the accessory building in the front yard is because our Zoning Ordinance allows you to put a garden shed between your house and the street if you are in a Lakes Residential District. The proposed detached garage will measure roughly twenty-four (24) feet wide by twenty-seven (27) feet deep. The proposed setback for the eastern side of the house would extend one (1) foot into the required setback. The proposed wall height for the detached garage would extend five point five (5.5) feet beyond the allowed height. Proposed accessory building coverage would be 640.2 feet greater than allowed for an accessory building in the street front yard of a lakefront lot. The proposed façade width for the accessory building would be sixteen point nine (16.9) feet greater than allowed. Impervious coverage is greater than 20 percent; approval and installation of a storm water management plan will be required.

3. Zoning Board of Appeals Q & A with the Director of Planning & Zoning:

Gajewski: It's a moderate size house, with proper massing, so it doesn't dominate the neighborhood. I agree with the neighbors that it fits perfectly into the neighborhood. The garage is a reasonable size, understanding the need for storage. The applicants are doing their part to upholding the spirit of the ordinance by installing French drains, two hundred fifty-five (255) square feet of pervious pavers, and a rain garden to protect water quality. I think their variance requests are reasonable.

Drolett: In the staff report the applicants request an increase for the accessory building coverage of seven hundred and forty-two (742) square feet, rather than the one hundred (100) square feet, but the plot plan it shows eleven hundred and seventy-five (1,175) square feet?

DPZ Michels: The accessory building is two-story.

Drolett: This is a side entry garage. If it were front entry, could they eliminate the necessity for the front-yard setback variance?

DPZ Michels: Correct.

Filip: And the shed will be removed.

DPZ Michels: Correct.

Gajewski: As far as the side-load garage, they have twenty (20) feet, which is pretty tight. Their practical difficulty is you need more natural light and air/ventilation, considering they are in the shadows of two much larger structures. So, you push the house forward to the lake and push the garage to the rear, allowing for more light.

DPZ Michels: A reminder, we're looking at, are these variances necessary for reasonable use of the property, not use of the property in the best way.

4. Applicant presentation and Q&A with the Zoning Board of Appeals:

Marc Gleichert, applicant, Damian Farrell, architect, and Kyle Gonzalez, architect.

Marc Gleichert: We designed a small cottage style home, compliant to the proposed ordinance. We have some side setback issues with the house based on the calculations of the height. In our opinion, this is the design that best handles the limitation of the site. Variances A and B relate to the house setbacks. On the east side, we're six feet three and a half inches to the roof and six feet nine and a half inches to the house. The current ordinance is five foot but based on height you'd have to move back seven feet. On the west side, we're six feet one and a half inches to the roof and six feet seven and a half inches to the house. The dormers have set the height calculation, not the peak. The dormers are consistent with the cottage design. Poor soil conditions, high water table, and lot size make this design a sensible approach to get the house we need. The remaining variance requests are for the garage, not an accessory building. The reasons we have a detached garage are; a) more light, b) structural issues are more easily solved if the house and garage are not connected, and c) it fits the historical cottage design in the area. We chose the side entry garage to get a better view of the cottage from both front and back.

Damian Farrell: We looked to the essence of the practical difficulty. The hardships are three things: 1) the long narrow site, 2) coverage, the need for a garage to store items associated with lake living, and 3) poor soils drives a foundation design which is different from the norm, and the water table six to twelve inches below the surface which requires wood structures with ventilation underneath.

Filip: You mentioned that it would be very difficult, due to the poor soils, to structurally place an attached garage onto this home.

Damian Farrell: You can. The reality is that you are dealing with two different kinds of structure, and there are inherent difficulties with that. It would make the construction extremely complicated. This footprint is so small that you don't have enough mass, we'll have to use friction piles.

Drolett: Is the house going to be on pilings?

Marc Gleichert: Yes.

Drolett: If you attached the garage it would be on pilings and footings.

Filip: That wouldn't be good.

Gajewski: Your renderings are beautiful and it is a well-designed structure.

5. Open Public Hearing on agenda item: 8:05 p.m.

Reading of letters into the record: Five letters received and included in the staff report.

Comments from public in attendance:

Carmen Crawford, 8743 Grove

It's completely normal to have a detached garage on our street, and I don't think this one will have an effect on our community.

6. Close Public Hearing on agenda item: 8:07 p.m.

DPZ Michels: As a refresher, the definition of "Practical Difficulty" is, "Special or unique conditions that are peculiar to a lot that cause compliance with the standards of the Ordinance to deprive the property owner of substantial rights similar to those enjoyed by other lots in the same Zoning District. Economic, personal, or financial hardship alone does not constitute a practical difficulty. Additionally, inconvenience, aesthetic considerations, personal preference, or neighbors' opinions are not considered a practical difficulty."

Chairperson Filip asked Marc Gleichert if he wanted to continue with only three (3) Zoning Board of Appeal members present as one "no" vote would deny his application. He asked if each variance was separate or was it an all or nothing decision? Chair Filip responded that each variance was decided upon separately. DPZ Michels clarified with an example: if the side-yard setback for the garage is not approved, but the other variances for the garage are approved, then you'd have to figure some way to move it, make it smaller, and make it comply.

Filip: One more question, the space above the garage is rather large; there are no plans to make it a living space?

Marc Gleichert: No plumbing. There will be power there as I might make it a workshop. Primarily there is very little storage space in the house so the garage will be used for storage.

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

Drolett: I'm good with the garage height. It's dwarfed by the two houses on either side of it.

(6) Adverse Effect 4.30(C)(6) Does the requested variance meet the following standard:	A	B	C	D	E	F	G
	12.02(E)(3) b Side-yard (east)	12.02(E)(3) b Side-yard (west)	12.02(E)(3) b Side-yard (garage)	18.18(C)(3) b Garage Wall Height	18.18(C)(3) b Garage Peak Height	18.18(C)(3) c Garage Lot Coverage	18.18(C)(3) c Garage Façade Width
Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	YES Drolett	YES Drolett	YES Drolett	YES Drolett	YES Drolett	YES Drolett	YES Drolett
<i>DPZ Comment: Approval of the variances for the house do not appear to have a negative affect on the adjacent property, as the houses on the adjacent properties have similar or larger height than this proposed house. The proposed garage appears to be taller than the other detached garages in the area, which may have an impact on the character of the neighborhood.</i>	Gajewski	Gajewski	Gajewski	Gajewski	Gajewski	Gajewski	Gajewski
	Filip	Filip	Filip	Filip	Filip	Filip	Filip
	NO None	NO None	NO None	NO None	NO None	NO None	NO None
Notes: Drolett – It will probably enhance it. Gajewski – The added storage is a benefit to the lakes area. Filip – I agree, the added storage area would be beneficial considering the difficulty the applicant would have to provide storage in another manner.							

(7) Intent of the Ordinance 4.30(C)(7) Does the requested variance meet the following standard:	A	B	C	D	E	F	G
	12.02(E)(3) b Side-yard (east)	12.02(E)(3) b Side-yard (west)	12.02(E)(3) b Side-yard (garage)	18.18(C)(3) b Garage Wall Height	18.18(C)(3) b Garage Peak Height	18.18(C)(3) c Garage Lot Coverage	18.18(C)(3) c Garage Façade Width
Approval of the variance is consistent with the intent and purpose of this Ordinance.	YES Drolett	YES Drolett	YES Drolett	YES Drolett	YES Drolett	YES Drolett	YES Drolett
<i>DPZ Comment: The proposed single-family use of the property is consistent with the intent of the Lakes Residential (LR) District. It appears that the intent of the Zoning Ordinance is to only allow small garden sheds in the street front yard of lakefront lots. If it is determined that there is a practical difficulty and the above criteria are true, then the variances would be consistent with the intent of the Zoning Ordinance.</i>	Gajewski	Gajewski	Gajewski	Gajewski	Gajewski	Gajewski	Gajewski
	Filip	Filip	Filip	Filip	Filip	Filip	Filip
	NO None	NO None	NO None	NO None	NO None	NO None	NO None
Notes: Gajewski – The applicants are doing their part to uphold the spirit of the Ordinance by putting in a storm water management system, including pervious pavers, rain garden, French drain, all to protect the water quality.							

8. Motion by the Zoning Board of Appeals:

Moved by Drolett, **seconded** by Gajewski, to grant variances for (17-ZBA-832ABCDEFG), the property located at 8761 Grove Road, tax id (D-04-01-385-011); the variances are for: A) reduced side-yard (east) setback of six (6) feet rather than the seven (7) feet required; B) reduced side-yard (west) setback of six (6) feet rather than the seven (7) feet required; C) reduced side-yard (garage) setback of five (5) feet rather than the five point six (5.6) feet required; D) increased accessory building wall height of eleven point five (11.5) feet rather than the six (6) feet allowed; E) increased accessory building peak height of twenty-two point nine (22.9) feet rather than the eight (8) feet allowed; F) increased accessory building coverage of seven hundred forty point two (740.2) square feet rather than the one hundred (100) square feet allowed; and G) increased accessory building façade width of twenty-six point nine

(26.9) feet rather than the ten (10) feet allowed; with the condition that the house be built in substantial compliance with the plans submitted to the Zoning Board of Appeals, particularly with respect to the distance between the walls and the lot lines; and recognizing the nonconformities on page 2-4 of the staff report.

Roll Call Vote: Yeas- Drolett, Gajewski, and Filip: Nays- None: Abstain- None: Absent- Smith and Holland.

VI. Public Comment – None

VII. Approval of Meeting Minutes:

Moved by Drolett, **seconded** by Gajewski, to approve the minutes of the June 6, 2017 Regular Meeting. **Motion carried by voice vote.**

Moved by Drolett, **seconded** by Gajewski, to approve the minutes of the May 30, 2017 Joint Meeting between the Township Board, Planning Commission and Zoning Board of Appeals.

Motion carried by voice vote.

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

DPZ Michels:

- ZBA will meet in August.
- Mr. Darnell will be reappointed as an alternate to the ZBA.
- There is a place open for a second alternate.
- Changes to the website are temporarily suspended as the Township website provider was hacked and they have locked down access.
- Planning Commission will have a Special Meeting on Tuesday, July 11th.

Drolett: Thanked the Board members, just the three of us, for a tough agenda which was handled in a wonderful way.

Gajewski: The question for Zach, and Jim, fire pits are a part of lake living and houses are built so tight today that smoke sets off fire alarms in surrounding homes. Are there restrictions on fire pits? DPZ Michels: No, maybe fire code issues.

IX. Adjournment

Chairperson Smith declared the meeting adjourned at 8:30 p.m.

Respectfully submitted,

Jay Holland, Secretary

Janis Miller, Recording Secretary