



# DEXTER TOWNSHIP

## ZONING BOARD OF APPEALS

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### REGULAR MEETING MINUTES OF THE ZONING BOARD OF APPEALS

#### Tuesday August 8, 2017

Members present: Chairperson Brook Smith, Vice-Chair Beth Filip, Secretary Jay Holland, James Drolett, and Bill Gajewki. Absent: None

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

- I. **Call to Order:** The meeting was called to order by Chairperson Smith at 6:03p.m.
- II. **Pledge of Allegiance:** None, due to lack of flag at meeting location.
- III. **Approval of Agenda:**  
Moved by Drolett, seconded by Gajewski, to approve the agenda as presented.  
Motion carried by voice vote.

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

V. **Action Items:**

1. **Introduction of the case:**

<b>Action Item:</b> # 1
<b>Appeal Number:</b> (17-ZBA-833) Tolliver
<b>Applicant Name(s):</b> Phillip & Jennifer Tolliver
<b>Property Tax ID:</b> (D-04-18-300-002)
<b>Address:</b> 14316 Eisenbeiser Dr., Chelsea
<b>Purpose of Variance Request:</b> <i>Reduced front-yard (street) setback one hundred forty (140) feet rather than the two hundred (200) feet required.</i>

2. **Report from the Director of Planning & Zoning:**

- DPZ Michels summarized the staff report, dated July 26, 2017, noting:
- A) The applicants want to build a pool house to the west of an in-ground pool, located in what is considered a front yard.
  - B) The Zoning Ordinance allows for accessory buildings to be located in a front yard in very limited conditions.
  - C) The proposed setback of 140 feet would extend roughly 5 feet in front of the front-yard boundary.

- D) There is an overhead power line on the western portion of the property, which building code generally requires structures to be at least 10 feet away from power lines.
- E) The sewer line and grinder pump are located to the north east of the house.
- F) There are no other accessory buildings in front yards along Eisenbeiser, nor are there any other pools along Eisenbeiser.
- G) Approval and installation of a storm water management plan will not be required.
- H) There aren't any nonconformities identified for the property.

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

**Gajewski:** I don't see lot coverage in the staff report.

**DPZ Michels:** Lot coverage is 4.1% as it stands now, and will increase slightly with the proposed pool building, well within range of the Zoning Ordinance. The impervious coverage is 7.9%, estimating for the pool deck.

**Drolett:** If they were to make this building smaller, it would still have the same issue of the setback because it is an accessory building, correct?

**DPZ Michels:** Not necessarily. Because of the angle of the street, I've determined the front yard is the shortest distance from that corner, wrapping around. So, if it was five feet shorter, or pushed back five feet, it would be the same distance as the house, and we would not consider that part of the front yard.

**Drolett:** Even if it were an accessory building?

**DPZ Michels:** It would be an accessory building, but it would be considered in a side yard.

**Drolett:** It looks like they have a front yard on three sides.

**Gajewski:** It's a corner lot as the road changes direction from northwest to north east. We need yard definition on corner lots to allow more discretion, in my opinion. The proposed pool house is behind the house, based on orientation. The house design orientation is based on topography, natural features, viewshed, and lake view to the north. The garage faces the road and the house is at an obtuse angle, to the north, to face the lake.

**DPZ Michels:** I'm relying on the graphic as it is shown in the Zoning Ordinance.

**Drolett:** I'm confused. If the Ordinance says you have to be 75 percent, or 200 feet, of the distance between the house and the front lot line as an accessory structure. As an accessory structure [detached] it has to go by those rules.

**Smith:** The crux of the matter is whether it is in the front yard, or the side yard. It's always an accessory building. That distance requirement only applies if it is in the front yard, so what we have to figure out is if it is in the front yard.

**Filip:** If the lot were not so uniquely shaped it would be in what I consider the front yard, because it's forward of the house [by 4 or 5 feet].

**Smith:** So if it were shifted away from the street, by 5 feet, it would no longer be in the front yard. I think what I heard the DPZ say was that in his opinion if this structure was shifted five feet further from the road, it would no longer be in the front yard.

**Filip:** What you [DPZ] are defining as the sweep is particularly the portion that says the minimum horizontal distance between the front lot line and the nearest point of the foundation, which in this case is south west, is one hundred forty-five (145) feet. The front yard doesn't change with the foundation of the house; it remains the same based on that minimum distance.

**Gajewski:** The pool house is located on an elevated knoll, which works well for a storm water runoff system. It's also in the right location to preserve trees, which also help storm water management, and to preserve the quality of water in North Lake.

**Drolett:** Because the road goes all the way around, isn't all of that front yard?

**DPZ Michels:** Because of the radius of the curve of the front lot line, this lot has one front yard, which runs roughly 145 feet back from the front lot line.

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

**Phil and Jen Tolliver** stated they wish to put in a pool and pool house to keep their three teenage children at home, more than they are now. When they built the home they knew of the existing power line so we built behind that. The angle of the home is all about the view of North Lake. They kept the house as high as they could to better the view. Although it's great to look at the lake, without access to it they don't have any water sports. They've based everything [pool and pool house] within reasonable distance of the grinder pump and existing old Oak trees. The pool house will be built to match the house.

**Filip:** I notice you have sixteen feet between the edge of the pool and the grinder pump. Could you shift the design by 5 feet? I'm struggling because one of our criteria is, the problem is not self-created. My understanding is you located the house on the lot for the beautiful view of the lake. The problem I'm having is; you sited the house but this [pool house] could shift 5 feet toward the grinder pump. Why is that not possible?

**Phil Tolliver:** Originally when we looked at it, I thought about 10% of the pool was in the backyard, following the curve. The 5 feet is new to me.

**Jen Tolliver:** There is also the issue of the concrete. On that side of the pool there will be a diving board, so we have an issue of the concrete coming close to the grinder pump.

**Holland:** The idea of self-created isn't resonating with me because in my mind that is handed down to successors. Just because they are the original ones there, they sited the house; I'm not seeing that the problem is self-created.

**Filip:** How far are you away from the overhead power lines?

**Phil Tolliver:** About 30-45 feet to the house.

**Filip:** You initially had a variance for one hundred thirty-five (135) feet and you built a little further back?

**Phil Tolliver:** Yes, when Zach and I put a ruler to it.

**Gajewski:** One of the standards would be the minimum necessary for reasonable use. If the pool house is a common size, then I think it would meet the minimum necessary for reasonable use.

**Phil Tolliver:** It's Chelsea Lumbers number one model for pool houses.

**Holland:** What's the height?

**Phil Tolliver:** Ten foot walls.

**Holland:** What pitch roof?

**Phil Tolliver:** It's on the Chelsea Lumber plans. It's not a steep slope.

**Smith:** Does Chelsea Lumber have only one model pool house they sell?

**Phil Tolliver:** They don't sell pool houses. It's essentially a garage package that they convert.

**Smith:** So they probably have smaller garage packages that are available.

**Phil Tolliver:** This is a standard two car garage package. It's twenty by twenty with a four foot porch off the front.

**Smith:** The other question is, you may have heard for the first time that resiting the pool house five feet away from Eisenbeiser would do the trick, you wouldn't need a variance. You could move five feet closer to the grinder pump, which would still be eleven feet away from the grinder pump and still meet the sewer authority minimum. Is there a reason that this wouldn't work for you?

**Phil Tolliver:** The reason I placed it there is to line up with the edge of the home. Moving it back would block views from the windows in the house.

**Drolett:** There is a fifteen foot easement that the sewer authority has coming up to that grinder pump. If you move the pool, and put an apron on it, you may be inside the sewers easement. You might be able to reduce the size of the building and move it a foot, you wouldn't need a variance.

**5. Open Public Hearing on agenda item: 7:30 p.m.**

**Reading of letters into the record:** Communications received from Chuck & Rose Manitz, Mark & Amy Heydlauff, 14356 Eisenbeiser Drive; and Scott & Mary Beth Matherly, 10047 Hadley Road & 14500 Eisenbeiser Drive.

**Comments from the public in attendance:**

Mary Beth Matherly, 14500 Eisenbeiser Drive, Dexter  
I have no problem with the Tolliver's building the pool & pool house.

**Gajewski:** I don't see any impact on the neighbor's viewshed. All the homes are off in the distance. Siting it where it is would not create any issues with their view of the lake.

**6. Close Public Hearing on agenda item: 7:32 P.M.**

**DPZ Michels:** I want to clarify why I determined one point to measure the front yard. If you look to the graphic on page 215 of our Zoning Ordinance, it says if the radius (in a curving front yard) is less than one hundred fifty (150) feet, then it's a corner lot. In this case when I was doing the math, that radius was greater than 150 feet so according to our figures it has one front yard, which is that shortest distance between the corner of the foundation and the front sweep of the curve.

**7. Zoning Board of Appeals deliberations:**

**Holland:** So you're saying it is one continuous front yard?

**DPZ Michels:** Yes. It looks like multiple front yards, but due to the radius of the curve it's one front yard.

**Smith:** Are you saying there is a single front yard that is between the house and Eisenbeiser with a straight line, or is it a front yard that curves?

**DPZ Michels:** It's a front yard that curves at one hundred and forty-five (145) feet distance.

**Smith:** So moving it back 5 feet doesn't fix the problem?

**DPZ Michels:** Not necessarily.

**Holland:** So you could end up with three sides of your lot being front yard.

**Drolett:** They are looking to build a structure that is actually sitting behind the house as you're going down Eisenbeiser Drive; and then it becomes in front of the house when you go around the curve.

**DPZ Michels:** The radius is greater than 150 feet so you have one, curving front yard.

**Smith:** Are you saying that moving this pool house by any amount doesn't solve the problem?

**DPZ Michels:** No, I'm not saying that.

**Smith:** I thought we had a new definition of front yard, but we have a curving situation.

**Drolett:** Having looked at it, it makes perfect sense to me, one hundred forty (140) feet off the road.

**Smith:** With the new understanding of these distances, if the problem could be fixed by moving the pool house by five feet, I would not be inclined to grant a variance. It can be fixed by moving the pool house by five feet, and I think the pool house is larger than it absolutely minimally needs to be. I also think making it a little bit smaller isn't going to fix the problem either.

**Smith:** Given the thought of the new curving, is 140 feet adequate?

**DPZ Michels:** That shows the closest point on the plot plan.

**8. Zoning Board of Appeals Standards of Review**

<p><b>(1) Practical Difficulty 4.30(C)(1)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i></b></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p><u>DPZ Comment:</u> <i>It appears possible to continue a reasonable residential use of the property without the requested variance for a pool house. Alternate configurations or locations for a pool house may be less ideal for the property owners but appear available without requiring a variance or requiring a lesser variance.</i></p>	
<p>Notes: Drolett – The fact that the front yard is curvilinear is a practical difficulty.</p>	<p><u>NO</u> <i>None</i></p>
<p><b>(2) Physical Conditions 4.30(C)(2)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></b></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p><u>DPZ Comment:</u> <i>The property is larger than required for Rural Residential (RR) Districts. It is bordered on the west and north by Eisenbeiser, which places limitations for the location of an accessory building. There is an overhead powerline running along the western portion of the property, and building code requires a 10 foot separation distance from powerlines. There is a grinder pump and sewer line on the eastern side of the property that requires a 7.5 foot setback. The property slopes downward from the south to the north, with the house at an elevation of roughly 977 feet and the northern boundary of the property at an elevation of roughly 973 feet.</i></p>	
<p>Notes: Drolett – The front yard is curved.</p>	<p><u>NO</u> <i>None</i></p>
<p><b>(3) Self-Created 4.30(C)(3)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><i>The practical difficulty is not self-created.</i></b></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p><u>DPZ Comment:</u> <i>The property has been split, and the house has been constructed since the original effective date of the current Zoning Ordinance. It appears reasonable that one should have or could have had reasonable knowledge about what the limitations for the use of the property and the developmental standards were at those times. The applicants were not the property owners when the property was split, but they were the applicants for the zoning permit for the single-family house. The applicants do not appear responsible for the configuration of the lot or location of the powerline.</i></p>	
<p>Notes: Drolett – I don't believe the applicant put the road in. Filip – There are power lines and other issues associated with the property, that prior positioning of the house is where it is, I think the Zoning Ordinance discusses.</p>	<p><u>NO</u> <i>None</i></p>

<p><b>(4) Reasonable Amount Necessary 4.30(C)(4)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i></b> <u>DPZ Comment:</u> <i>The proposed pool house would only extend 5 feet into the required setback. The proposed building appears relatively large for a pool house (that would only house pool equipment), with a lot coverage of roughly 572 square feet and exterior façade dimensions of 20 feet by 24 feet. It appears possible to reduce the size of the proposed pool house and eliminate the need for the variance or to reduce the amount of variance necessary.</i></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p>Notes: Drolett – In as much as it is back 140 feet from the road. Filip – I concur with Jim. Smith – I agree, for all the reasons we have discussed.</p>	<p><u>NO</u> None</p>
<p><b>(5) Public Health, Safety, and Welfare 4.30(C)(5)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i></b> <u>DPZ Comment:</u> <i>The variance for the proposed pool house does not appear to be injurious to the public health, safety, or welfare. Eisenbeiser is a narrow, dead end street that serves less than 10 properties. It is unlikely to cause a safety hazard for traffic.</i></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p>Notes: Smith – I don't see how this could hurt anybody.</p>	<p><u>NO</u> None</p>
<p><b>(6) Adverse Effect 4.30(C)(6)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><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></b> <u>DPZ Comment:</u> <i>The variance for the proposed pool house does not appear to have a significantly negative impact on the surrounding properties or area. The applicant has submitted letters of support (2) from some neighbors. The proposed pool house, however, would be the first structure of this type located within a front yard in the immediate area.</i></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p>Notes:</p>	<p><u>NO</u> None</p>
<p><b>(7) Intent of the Ordinance 4.30(C)(7)</b> <b>Does the requested variance meet the following standard:</b></p>	<p><b>18.18(C)(2)aii</b> Front-yard</p>
<p><b><i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i></b> <u>DPZ Comment:</u> <i>The proposed accessory residential use is consistent with the intent of the Rural Residential (RR) District. If the Zoning Board of Appeals determines that the requested variance is necessary for the use of the property, that no other reasonable options are available, that it is a reasonable amount necessary, and that it will not have a significantly negative impact on the surrounding area, it would be consistent with the intent and purpose of the Zoning Ordinance.</i></p>	<p><u>YES</u> Drolett Holland Filip Gajewski Smith</p>
<p>Notes: Drolett – It's actually set back behind the house, except for this curvilinear front yard.</p>	<p><u>NO</u> None</p>

**8. Motion by the Zoning Board of Appeals:**

**Moved** by Filip, **seconded** by Gajewski, to approve a variance for (17-ZBA-833) Tolliver, for the property located at 14316 Eisenbeiser Drive, for a reduced front-yard (street) setback one hundred forty (140) feet rather than the two hundred (200) feet required; recognizing that no nonconformities have been identified for the property; on the condition that the pool house shall be built in substantial compliance with the plans presented to the Zoning Board of Appeals.

**Roll Call Vote: Yeas – Drolett, Holland, Filip, Gajewski, and Smith; Nays – None; Absent – None.**

**VI. Public Comment:** None.

**VII. Approval of Meeting Minutes:**

**Moved** by Gajewski, **seconded** by Filip, to approve the minutes of the July 6, 2017 Regular meeting as amended. **Motion carried by voice vote.**

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

**DPZ Michels:**

- We have two court proceedings coming up.
- The Planning Commission has forwarded the draft Zoning Ordinance text, to the Township Board, with a favorable recommendation, and the understanding there are a number of amendments they want in the near future.
- Mr. Darnell was appointed as an alternate.
- The next meeting is September 5<sup>th</sup>.

**IX. Adjournment**

Chairperson Smith declared the meeting adjourned at 8:07 p.m.

Respectfully submitted,

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Jay Holland, Secretary

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Janis Miller, Recording Secretary