

# DEXTER TOWNSHIP

## ZONING BOARD OF APPEALS

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VICE CHAIRPERSON

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CHANDRA HURD, *ALT.*

JANIS MILLER  
RECORDING SECRETARY

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

Tuesday June 4, 2019

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Jay Holland, Jim Drolett, and Marty Straub. Absent: None.

Also present: David Rohr, Director of Zoning and Planning; and Janis Miller, Recording Secretary.

**1. Call to Order and Pledge of Allegiance:**

The meeting was called to order by Chairperson Smith at 6:02 pm.

**2. Approval of Agenda:** Without any corrections the Chair deemed the agenda approved.

**3. Approval of Minutes:**

**Moved** by Drolett, **seconded** by Filip, to approve the minutes of the May 7, 2019 as amended. **Motion carried by voice vote.**

**4. Public Comment – Non-Agenda Items:** None.

**5. Action Items:**

**Item #1 (19-ZBA-871AB) Parker 9263 McGregor Rd., Pinckney**

- A) Reduced water body setback of seven (7) feet (currently 10 feet) rather than the thirty-five feet required, and
- B) Increase maximum lot coverage to 27% rather than the 25% allowed.

**a. Conflict of Interest/Ex-parte Contact Review:**

Filip: She said "Hi" to Mr. Parker when she visited the site but had no further conversation with him.

Drolet: When he visited the site, Mr. Parker came out of the house. The conversation did not include the application for variances.

**b. Staff Presentation and Questions from ZBA members:**

Director of Zoning and Planning David Rohr summarized the staff report and answered question from the ZBA members.

**b. Petitioner Presentation and Questions from ZBA members:**

Darrel Parker, homeowner and petitioner, stated his case and answered questions from the ZBA members.

**d. Public Comment:**

Open 6:30 pm

**i. letters and/or emails:** No letters or emails received.

**ii. comments from public in attendance:** None.

Close 6:30 pm

**e. Zoning Board of Appeals deliberations and Standards of Review:**

Deliberation: Setback toward lake (additional encroachment is just for the steps), side yard steps setback (recessing steps into deck to avoid side yard variance), expanding deck increases safety for egress through door wall.

Standards of Review: *pursuant to §4.30(C) of the Dexter Township Zoning Ordinance*

<b>(1) Practical Difficulty §4.30(C)(1)</b>		<b>A</b>	<b>B</b>
<b>Does the requested variance meet the following standard:</b>		<b>18.18(C)(1)</b> Waterbody setback	<b>12.02(E)(4)b</b> Lot Coverage
<b><i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i></b>		<b>YES</b> Filip Holland Straub Drolett	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Filip: Yes for B as I'm still torn about the definition of lot coverage.		<b>NO</b> Smith	<b>NO</b> None
<b>(2) Physical Conditions §4.30(C)(2)</b>		<b>A</b>	<b>B</b>
<b>Does the requested variance meet the following standard:</b>		<b>18.18(C)(1)</b> Waterbody setback	<b>12.02(E)(4)b</b> Lot Coverage
<b><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></b>		<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Filip: Yes, the property is very small, and the entire back portion of the property encroaches into the waterbody setback. In order to provide suitable egress from the home something needs to be placed there. Drolett: Yes, for the same reasons Beth stated. The entire structure is in the waterbody setback.		<b>NO</b> None	<b>NO</b> None
<b>(3) Self-Created §4.30(C)(3)</b>		<b>A</b>	<b>B</b>
<b>Does the requested variance meet the following standard:</b>		<b>18.18(C)(1)</b> Waterbody setback	<b>12.02(E)(4)b</b> Lot Coverage
<b><i>The practical difficulty is not self-created.</i></b>		<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Filip: Yes, there's been no evidence presented that Mr. Parker affected the practical difficulty in any way.		<b>NO</b> None	<b>NO</b> None

(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:	A	B
	18.18(C)(1) Waterbody setback	12.02(E)(4)b Lot Coverage
<b>The variance is a reasonable amount necessary to mitigate the practical difficulty.</b>	<u>YES</u> Filip Holland Straub Drolett	<u>YES</u> Filip Holland Straub Drolett Smith
Notes: Smith: I think you can put steps on the side of this deck and you wouldn't have to come closer to the lake, and you'll get to where you want to go.	<u>NO</u> Smith	<u>NO</u> None

(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:	A	B
	18.18(C)(1) Waterbody setback	12.02(E)(4)b Lot Coverage
<b>Approval of the variance will not be injurious to the public health, safety, and welfare.</b>	<u>YES</u> Filip Holland Straub Drolett Smith	<u>YES</u> Filip Holland Straub Drolett Smith
Notes: Filip: There's been no evidence presented thus far that this would be injurious to the public health, safety, and welfare.	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:	A	B
	18.18(C)(1) Waterbody setback	12.02(E)(4)b Lot Coverage
<b>Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.</b>	<u>YES</u> Filip Holland Straub Drolett Smith	<u>YES</u> Filip Holland Straub Drolett Smith
Notes: Filip: Again, evidence has not been provided that this variance would affect the value, or use of adjacent properties in the area, in a substantially adverse manner. Smith: Yes for the reasons Beth stated.	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B
	18.18(C)(1) Waterbody setback	12.02(E)(4)b Lot Coverage
<b>Approval of the variance is consistent with the intent and purpose of this Ordinance.</b>	<u>YES</u> Filip Holland Straub Drolett	<u>YES</u> Filip Holland Straub Drolett Smith
Notes: Filip: Evidence has not been presented that this would be inconsistent with the intent and purpose of the Ordinance. Smith: I'm concerned that given the fact that we have a waterbody setback in this Township, that simply saying that you have a small front yard, gives you the authority to come as close to the waterbody as you want to come is a bad precedence to set	<u>NO</u> Smith	<u>NO</u> None

**f. Motion by Zoning Board of Appeals:**

**Moved** by Drolett, **seconded** by Holland, to approve the variances for petition (19-ZBA-871AB), property located at 9263 McGregor Rd. [Pinckney] Dexter Township, tax id (D-04-01-407-025); motion is to allow a reduced waterbody setback of seven (7) feet for the stair steps; the deck to be constructed as shown on the plans, at eleven (11) feet from the house with stair steps [toward the lake] past that; and also to increase the maximum lot coverage from 25% to 27% to accommodate the expansion of the deck.

*Note: Steps from the deck into the side yard have not been given a variance.*

**Roll Call Vote: Yes – Filip, Holland, Straub, Drolett, Smith; No – None; Abstain – None; Absent – None. Motion carries 5-0.**

Chairperson Smith comments to petitioner: Congratulations, you have your variances. Be sure to work with Dave to get your permits, and do what you need to do. They evaporate after a year.

**Item #2 (18-ZBA-857ABCD) DaSilva 8433 Thurston, Pinckney**

- A) An increased lot coverage of thirty-one (31) percent rather than the twenty-five (25) percent allowed;
- B) A reduced waterbody setback of forty-six (46) feet rather than the fifty (50) feet required;
- C) A reduced rear yard setback less than the required thirty (30) feet required pertaining to the westerly expansion of the proposed garage; and
- D) A reduced front yard setback less than the required twenty-five (25) feet required (Reduced setback is from the access easement to the east.).

**a. Conflict of Interest/Ex-parte Contact Review:** None.

**b. Staff Presentation and Questions from ZBA members:**

Director of Zoning and Planning David Rohr summarized the staff report and answered question from the ZBA members

**c. Petitioner Presentation and Questions from ZBA members:**

Mr. DaSilva was not present at this meeting.

**d. Public Comment:**

Open 6:55 pm

**i. letters and/or emails:** Communications from interested parties in the file.

**ii. comments from public in attendance:**

Cindy and Jim Ziegler, 8401 Thurston Rd, Pinckney

Ziegler's have ownership of the easements, don't know where DaSilva got his easement rights. Ziegler's have a survey of their property, not sure if DaSilva has a survey of his property. DaSilva wants to overbuild, adversely affecting their property, as well as obstructing their view of the lake.

Judith Linfield, 8427 Thurston Rd, Pinckney

As the direct neighbor to the west, she says the DaSilva house is on a wetland, was built as a cottage, is on a small lot, and they want to keep spreading out thereby interfering with the neighbor's egress to their homes.

Jeff Stannis, 8624 Dexter Townhall Rd, Friend of Ziegler's. Visiting the Ziegler's, he noticed the mess on the DaSilva property as well as the easement, with the hole in the drainage pipe. He objects to building in a wetland, adding on to a cottage (not a year-round home), and states DaSilva needs to fix the damage he has done to the neighbor's property.  
Close 7:06 pm

**e. Zoning Board of Appeals deliberations and Standards of Review:**

Deliberations: What to do when the applicant fails to appear, having been duly noticed. The Board has not had a chance to ask the applicant questions so the inclination would be to adjourn in order to hear from the applicant. Property has two front yards, waterbody setback, and a rear yard setback.

**f. Motion by Zoning Board of Appeals:**

Moved by Filip, seconded by Straub, to table [the requested variances] until after the next action item, and then if the applicant does not appear postpone to the July 2, 2019 meeting.

**Roll Call Vote: Yes – Filip, Holland, Straub; No – Drolett, Smith; Abstain – None; Absent – None. Motion carries 3-2.**

Moved by Holland, seconded by Straub, to reconsider the motion.

**Roll Call Vote: Yes – Holland, Straub, Drolett, Smith; No – None; Abstain – Filip; Absent – None. Motion carries 4-1.**

Moved by Filip, seconded by Holland, to postpone [a decision on] the DaSilva requested variances until the next meeting, July 2, 2019, with the understanding that the questions that arose tonight, from this Board, be answered by DZP Rohr.

**Roll Call Vote: Yes – Filip, Holland, Straub, Drolett, Smith; No – None; Abstain – None; Absent – None. Motion carries 5-0.**

**Item #3 (19-ZBA-827AB) Edison 9232 Dexter-Pinckney RD., Pinckney**

- A) Reduced water body setback of twenty (20) feet (currently 40 feet) rather than the thirty-five (35) feet required, and
- B) Increased maximum lot coverage to 29% rather than the 25% allowed.

**a. Conflict of Interest/Ex-parte Contact Review: None.**

**b. Staff Presentation and Questions from ZBA members:**

Director of Zoning and Planning David Rohr summarized the staff report and answered question from the ZBA members

**b. Petitioner Presentation and Questions from ZBA members:**

Tiffany Edison, homeowner and applicant, stated her case and answered questions from the ZBA members.

**d. Public Comment:**

Open 7:40 pm

**i. letters and/or emails:** None.

**ii. comments from public in attendance:**

David Bone, 9260 Dexter Pinckney Rd., Pinckney

Lives two houses away. Noted the Edison deck addition complies with the what the neighbors have, not changing the neighborhood or causing any difficulties to the neighbors. He approves the deck addition.

Ron Amat, 9224 Dexter Pinckney Rd., Pinckney

Approves the addition of a deck to the Edison home.

Close 7:44 pm

**e. Zoning Board of Appeals deliberations and Standards of Review:**

Deliberation: Definition of practical difficulty as stated in the Zoning Ordinance.

Deck could be twelve (12) feet or fourteen (14) feet, instead of the sixteen (16) and still be functional. Built-in benches on the deck. Deck will remain uncovered. Notice was for twenty (20) foot setback from the waterbody. Nonconformities of the property.

**Moved** by Filip, **seconded** by Straub, to consider only the twenty (20) foot waterbody setback [vs. considering a smaller deck further from the water's edge] that was noticed in the newspaper.

Amendment by Smith that all deck & stair construction should not protrude more than sixteen (16) feet from the north wall of the house and everything (deck & steps) has to be within the twenty (20) foot setback. Filip and Straub accept amendment. **Motion carried by voice vote.**

Standards of Review: *pursuant to §4.30(C) of the Dexter Township Zoning Ordinance*

(1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard:	A	B
	<b>The strict application of the terms of this Ordinance would constitute a practical difficulty.</b>	<b>18.18(C)(1)</b> Waterbody setback
Notes: Filip: Yes, because I believe that many of the adjacent properties have decks on them, and have had decks for some time. If we don't allow them to enjoy their lot, similarly enjoyed by others, would not be able to enjoy their lot in a similar way as their neighbors in the same zoning district	<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
	<b>NO</b> None	<b>NO</b> None
(2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard:	A	B
	<b>18.18(C)(1)</b> Waterbody setback	<b>12.02(E)(4)b</b> Lot Covera

Documents regarding the agenda items can be obtained at the Township hall during normal business hours, the Townships website: [www.dextertownship.org](http://www.dextertownship.org) and can be viewed on [ew.livestream.com/dextertownship.org](http://ew.livestream.com/dextertownship.org).

<b><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></b>	<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Filip: This lot is significantly smaller than what the Zoning Ordinance envisions for lots in this zoning district. Smith: Yes, for the reasons enunciated by the Vice-Chair..	<b>NO</b> None	<b>NO</b> None

<b>(3) Self-Created §4.30(C)(3)</b> <b>Does the requested variance meet the following standard:</b>	<b>A</b> <b>18.18(C)(1)</b> Waterbody setback	<b>B</b> <b>12.02(E)(4)b</b> Lot Coverage
<b><i>The practical difficulty is not self-created.</i></b>	<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Smith: The applicant did not create the size of this lot.	<b>NO</b> None	<b>NO</b> None

<b>(4) Reasonable Amount Necessary §4.30(C)(4)</b> <b>Does the requested variance meet the following standard:</b>	<b>A</b> <b>18.18(C)(1)</b> Waterbody setback	<b>B</b> <b>12.02(E)(4)b</b> Lot Coverage
<b><i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i></b>	<b>YES</b> Filip Straub Drolett Smith	<b>YES</b> Filip Straub Drolett Smith
Notes: Smith: Once we find a practical difficulty, this mitigates it.	<b>NO</b> Holland	<b>NO</b> Holland

<b>(5) Public Health, Safety, and Welfare §4.30(C)(5)</b> <b>Does the requested variance meet the following standard:</b>	<b>A</b> <b>18.18(C)(1)</b> Waterbody setback	<b>B</b> <b>12.02(E)(4)b</b> Lot Coverage
<b><i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i></b>	<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Filip: No evidence has been presented that this would be injurious to the public health, safety, and welfare.	<b>NO</b> None	<b>NO</b> None

(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:	A	B
	18.18(C)(1) Waterbody setback	12.02(E)(4)b Lot Coverage
<b>Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.</b>	<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes: Filip: There's been no evidence provided that this would negatively impact the surrounding properties. Smith: We've had testimony by some of the neighbors that they approve this change.	<b>NO</b> None	<b>NO</b> None

(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B
	18.18(C)(1) Waterbody setback	12.02(E)(4)b Lot Coverage
<b>Approval of the variance is consistent with the intent and purpose of this Ordinance.</b>	<b>YES</b> Filip Holland Straub Drolett Smith	<b>YES</b> Filip Holland Straub Drolett Smith
Notes:	<b>NO</b> None	<b>NO</b> None

**f. Motion by Zoning Board of Appeals:**

**Moved** by Filip, **seconded** by Drolett, regarding petition (19-ZBA-872AB) Edison, located at 9232 Dexter Pinckney Rd., tax id (D-04-01-300-007), to approve the requested variances: under Ordinance §18.18(C)(1) to allow for a setback of twenty (20) feet, provided however that the deck only shall extend no more than sixteen (16) feet from the northern most wall of the house, including all structures built such as a stairway; as well as Ordinance §12.02(E)(4)b, allowing for a lot size 29% rather than the 25% as required; recognizing any nonconformities that may have been introduced since 2016.

**Roll Call Vote: Yes – Filip, Holland, Straub, Drolett, Smith; No – None; Abstain – None; Absent – None. Motion carries 5-0.**

Chairperson Smith comments to petitioner: Congratulations, you have a version of your variances. Be sure to get with Dave and pursue this vigorously as they expire after a year.

**6. Public Comment:**

Unidentified woman approached the Board table to discuss what she needed to do about her neighbor who was not mowing his property. Chairperson Smith responded that it could be a blight issue and directed her to call the Township Ordinance Officer.



7. **Concerns of ZBA Members, DPZ, and Recording Secretary:**

**Recording Secretary:** Concerned about a member of the audience just walking up to the Board table to discuss her issue without regard to the meeting in progress. Chair should have maintained order and asked her to approach the podium, identify herself, and speak her concern into the microphone.

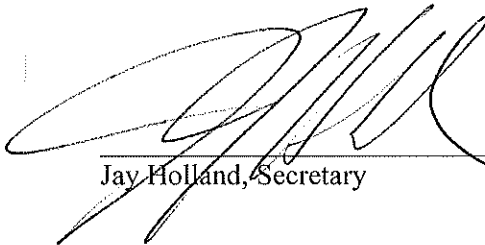
**Drolett:** Would like the DZP to provide larger prints of drawings & surveys in the Board packets.

**Smith:** Need to have "Conflict of Interest/Ex-Parte Contact" added to the agenda.

8.. **Adjournment**

Chairperson Smith declared the meeting adjourned at 8:30 pm.

Respectfully submitted,



Jay Holland, Secretary



Janis Miller, Recording Secretary

