



"A Community For All Seasons"

# Dexter Township

## Zoning Board of Appeals

6880 Dexter-Pinckney Road  
Dexter, MI 48130

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Steve Burch,  
Chair  
James Cormier,  
Vice Chair  
Pat Kelly,  
Secretary

Bill Gajewski  
Paul Godek, Alt.

DeNette Bolyard,  
Recording Secretary

### REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday, June 12, 2007 7:00 PM

Members present: Steve Burch, Chair, Pat Kelly, Secretary, James Cormier, Bill Gajewski, Paul Godek, Alternate

Absent: Hank Byma

Also present: Patrick Sloan, Director of Planning and Zoning and DeNette Bolyard, Office Manager-Recording Secretary.

- I. **Call to Order:** The meeting was called to order by Chairman Burch at 7:03 p.m.
- II. **Pledge of Allegiance:** Chair Burch led the Pledge of Allegiance to the Flag
- III. **Approval of Agenda:** There was a motion by Kelly, supported by Gajewski to approve the agenda as submitted. Carried.
- IV. **Approval of Meeting Minutes**
  - May 8, 2007-** Motion by Gajewski, supported by Kelly to approve the meeting minutes as amended. Motion. **Carried**
  - May 23, 2007-** Motion by Gajewski, supported by Cormier to approve as submitted. **Carried**
- V. **Public Comment- Non Agenda Items:** None
- VI. **Action Items:**

1)  
Katrina Stewart  
13521 Edgewater  
Gregory, MI 48137

Chair Burch read an email received from Ms. Stewart requesting an extension for the variance she had received approval for on July 11, 2006.

Kelly asked the applicant if she had placed the restrictions on the deed yet. She replied no, but restrictions are on disclosure agreement.

Motion by Kelly, supported by Gajewski, to approve variance extension for a period of one year from the date of the original approval. Motion **Carried**.

<b>Agenda Item #</b>	<b>2</b>
<b>Appeal Number:</b>	07-ZBA-663
<b>Property Tax ID:</b>	04-07-101-006
<b>Applicant Name(s):</b>	Thomas Girard & Elizabeth Geisler
<b>Property Address:</b>	8674 Hillsdale Drive

<b>Variances Requested Per Submitted ZBA Application:</b>					
<u>Section</u>	<u>Current</u>	<u>Base Proposal</u>	<u>Alternative Proposal</u>	<u>Permitted</u>	<u>Description/Notes</u>
12.02.E.1	.13 acres	.13 acres	.13 acres	1 acre	Recognize lot is less than 1 acre.
12.02.E.2	50 feet	50 feet	50 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	32 feet	36'	40'	50' (road)	To decrease the front yard setback nonconformities on the road (west) side.
12.02.E.3.b	Approx. 2 feet (north)	7' 6" (north); 6' (south)	7' 6" (north); 6' (south)	8 feet	To decrease the side yard setback nonconformity on the north side and add a side yard setback nonconformity on the south side.
12.02.E.4	12.06%	27.38%	25.38%	25%	To increase the lot coverage to be nonconforming.

Persons noticed were read into the record by Chair Burch.

Patrick Sloan, Director of Planning and Zoning gave a brief synopsis of the applicants appeal. He indicated that there were two sets of plans that were submitted. The plans dated May 18<sup>th</sup> supersedes the original set. He also pointed out that there was a discrepancy between his lot coverage calculations and the applicants calculations.

The applicant asked Sloan why 8' was listed as the required side yard set back on the application. Sloan explained that the side yard set back required depended on the height of the structure.

Burch commended the applicant on the originality and resourcefulness of the roof plan for the structure.

Gajewski stated he liked the way the house stair steps into the hillside. The stormwater management plan is sufficient. He also stated he liked the use of the insulated concrete forms.

Kelly stated that the parking is an issue Feels sheet runoff from site is a issue, especially given the amount of rainfall we just received.

Mr. Girard, the applicant, explained the parking plans and indicated that the retaining wall is partially on the road easement.

Cormier indicated that the 25.375% lot coverage is a problem. Also would like to see a plan to mitigate the sheet water run off.

Godek questioned if the lot coverage to be recalculated to better understand where the difference in percentage is. Also indicated that the retaining wall partially in the road easement is a problem. Questioned whether or not there was any alternative to parking.

**Public Comment –**

Katrina Stewart  
13521 Edgewater

supports the applicants plan.

Motion was made by Gajewski, supported by Cormier to approve the variance as follows:

<u>Section</u>	<u>Current</u>	<u>Approved</u>	<u>Permitted</u>	<u>Description/Notes</u>
12.02.E.1	.13 acres	.13 acres	1 acre	Recognize lot is less than 1 acre.
12.02.E.2	50 feet	50 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	32 feet	40'	50' (road)	To decrease the front yard setback nonconformities on the road (west) side.
12.02.E.3.b	Approx. 2 feet (north)	7' 6" (north); 6' (south)	8 feet	To decrease the side yard setback nonconformity on the north side and add a side yard setback nonconformity on the south side.
12.02.E.4	12.06%	25.0%	25%	Lot Coverage to be no more than

**With the additional conditions:**

Construct a Terrace Rain Garden to retain a 1" rain event using (BMP's) Best Management Practices. Plans to be approved by Director of Planning and Zoning prior to construction.

Demonstrate on site plan that there are 2 legal parking spaces available per the Zoning Ordinance.

Godek **YES** Burch **YES** Kelly **YES** Cormier **YES** Gajewski **YES**

Per Section 4.05.C.1, Kelly read the required findings of fact into the record:

- a. The practical difficulties with the property are not economic in nature.
- b. The practical difficulties with the property include shallowness, narrowness and very steep slopes. In addition, the existing cottage is smaller than the minimum allowed by the Zoning Ordinance.
- c. The special conditions or circumstances do not result from actions of the applicant.
- d. The variances will relate only to property under control of the applicant.
- e. The variances will be in harmony with the general purpose and intent of this Ordinance and will improve the stormwater management system of the area.
- f. Strict compliance with area, setbacks and frontage would render conformity unnecessarily burdensome since the existing cottage is smaller than the minimum single family residential structure allowed.
- g. The variances granted will permit a modest-sized single family home that meets the minimum size requirements of the Zoning Ordinance. The variances represent the minimum amount necessary to mitigate the practical difficulty with the property.
- h. The use of the property will continue as residential single family home.

The Board determined that the application met all the criteria as delineated in section 4.05.C.1. a-h of the Zoning Ordinance.

Motion CARRIED

<b>Agenda Item #</b>	<b>3</b>
<b>Appeal Number:</b>	06-ZBA-637
<b>Property Tax ID:</b>	04-15-200-011
<b>Applicant Name(s):</b>	Joseph Machnik
<b>Property Address:</b>	None

<b>Variations Requested Per Submitted ZBA Application:</b>				
<b>Section</b>	<b>Current</b>	<b>Requested</b>	<b>Permitted</b>	<b>Description/Notes</b>
12.02.E.1	.67 acres	.67 acres	2 acres	Recognize lot area is less than 2 acres.
12.02.E.2	Approx. 124 feet	Approx. 124 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3 .a	--	56 feet (N. Territorial)	150 feet	To allow the proposed structure to encroach into the front yard setback along North Territorial Road.
12.02.E.3 .a	--	50 feet (Dexter Townhall)	100 feet	To allow the proposed structure to encroach into the front yard setback along Dexter Townhall Road.
12.02.E.3 .c	--	15 feet (north side)	30 feet	To all the proposed structure to encroach into the rear yard setback on the north side of the parcel.

The purpose of this variance application is to build a new home and attached garage on parcel 04-15-200-011, which has no address. This parcel is located at the northeast corner of the intersection of North Territorial Road and Dexter Townhall Road. The parcel is currently vacant.

Burch dispensed of reading persons noticed as this application was tabled from a previous meeting.

Sloan gave a brief history of Mr. Machnick's variance request. He indicated that at the May 8, 2007, the ZBA expressed that they wished to have the township attorney review. Sloan reported that there were two findings that needed to be clarified prior to the Board discussing a dimension variance.

- 1) Was lot 2 sold before March 2, 1975. The finding from the attorney was that yes it was. That would make lot 3 a legal nonconforming lot.
- 2) Was the 1974 variance granted by the ZBA accepted by the applicant. The finding was no it was not.

Steven Estey, applicant's attorney, stated that a house plan was chosen that is in conformity with the house on lot 1. And also a home that is consistent with the neighborhood.

Kelly wondered why the applicant was requesting a set back from Dexter Townhall Road.

Aaron Machnik, the applicant's brother and representative stated that the N. East corner grade differential makes it difficult and does not want to disturb vegetation growth. Also because of the location that the drain field needs to be. Needs to be able to accept runoff from lot 2 as well.

PUBLIC COMMENT –

Scott Fisher  
6710 Dexter Townhall Rd.

Questioned where the septic field is going to be placed. Is the home going to be single story ?

Public Comment Closed-

Cormier was not at the last meeting and was having difficulty with the fact that the lot has been determined buildable. Does understand it has a practical difficulty.

Godek had questions regarding the driveway and the Right of Way. It was explained that the Road Commission would want the driveway cut on the less traveled road and as far away from intersection as possible.

Kelly offered a resolution supported by Gajewski as follows:

**Notice of Appeal – Joseph Machnik (File No. 06-ZBA-637)**

The following preamble and resolution were offered by Member Kelly and supported by Member Gajewski:

**Whereas**, on July 17, 2006, Joseph Machnik filed a Notice of Appeal to the Dexter Township Zoning Board of Appeals (ZBA) requesting variances from specific site development requirements of the Dexter Township Zoning Ordinance to permit the construction of a new single family home and attached garage on parcel 04-15-200-011 (no address), also known as Lot 3 of the Mach I Subdivision, which is a vacant parcel located directly northeast of the intersection of North Territorial Road and Dexter Townhall Road; and,

**Whereas**, a public hearing before the Dexter Township Zoning Board of Appeals held on September 12, 2006, was attended by Aaron Machnik, representative of the applicant, and members of the public and application materials were reviewed and public comments were entered into the record; and,

**Whereas**, per section 4.05.C.1 of the Dexter Township Zoning Ordinance, the Dexter Township Zoning Board of Appeals has the authority to authorize specific variances from site development requirements provided that all required findings are met and the record of the ZBA contains evidence supporting each conclusion; and,

**Whereas**, on March 6, 1973, Dexter Township granted Final Preliminary Plat approval for the Mach I Subdivision, which consisted of Lot 1 (04-15-200-009), Lot 2 (04-15-200-010), and Lot 3 (04-15-200-011); and,

**Whereas**, MCL §560.120(3) of the Michigan Land Division Act states, *“Final approval of a preliminary plat under this section confers upon the proprietor for a period of 2 years from date of approval the conditional right that the general terms and conditions under which preliminary plat approval was granted will not be changed. The 2-year period may be extended if applied for by the proprietor and granted by the governing body in writing. Written notice of the extension shall be sent by governing body prior to the other approving authorities.”* As such, this 2-year approval period for the Mach I Subdivision would expire on March 6, 1975; and,

**Whereas**, on March 27, 1973, Dexter Township adopted a new Zoning Ordinance, Section 11.09 of which stated, *“...if two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of this Ordinance, March 27, 1973, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall*

*be considered to be an undivided parcel for purposes of this Ordinance, and no portion of said parcel shall be used or divided in any manner which diminishes compliance with lot width and area requirements established by this Ordinance.”; and,*

**Whereas,** because the Dexter Township Zoning Ordinance adopted on March 27, 1973 required a minimum lot size of one (1) acre for parcels in the Rural Residential Zoning District, and because all three (3) lots created in the Mach I Subdivision were less than one (1) acre, none of the three (3) lots that were contiguous to one another could be transferred or sold after March 6, 1975 without obtaining a variance to do so from the Dexter Township Zoning Board of Appeals; and,

**Whereas,** on May 28, 1974, the applicant applied to the Dexter Township Zoning Board of Appeals for front yard and side yard setback relief for Lot 1 of the Mach I Subdivision; and,

**Whereas,** for reasons stated in the approved minutes of the June 27, 1974 Zoning Board of Appeals meeting, which are further explained in Patrick Sloan’s (Dexter Township Director of Planning and Zoning) report dated February 12, 2007, the ZBA approved front yard setback relief for Lot 1 and denied side yard setback relief for the same; and,

**Whereas,** the conditions of the variance granted for Lot 1 on June 27, 1974 were rejected by the applicant because the state plat act preserved for two years the terms and conditions of the plat approval. At the time of plat approval on March 6, 1973, the regulations required a 50’ front yard setback and a 15’ setback from the side and rear lot lines. The home on Lot 1 was completed, approved and occupied in 1974 and no lot reconfiguration occurred for any of the lots once the Township was aware of the State Plat requirements; and

**Whereas,** on October 17, 1974, a Notice of Interest for 6710 Dexter Townhall Road (Lot 2) was signed by Marilyn Colby. The address listed for Ms. Colby on the Notice of Interest was 6710 Dexter Townhall Road. The Notice of Interest was recorded with the Washtenaw County Register of Deeds on October 28, 1974; and,

**Whereas,** on March 6, 1975, the 2-year approval granted by the Michigan Land Division Act expired; and,

**Whereas,** through the research of Peter Flintoft on May 31, 2007, attorney for Dexter Township, evidence has been uncovered that suggests that a land contract was executed between Marilyn Colby and Joseph Machnik for 6710 Dexter Townhall Road (Lot 2) prior to March 6, 1975. As such, all three (3) lots complied with the regulations of Section 11.09 of the Zoning Ordinance after March 6, 1975. A summary of Mr. Flintoft’s research is noted in Patrick Sloan’s report dated June 8, 2007; and,

**Whereas,** in 1984, the Dexter Township Board of Review lowered the assessed value of Lot 3 from \$2,200 in 1983 to \$500 and declared the lot “unbuildable.”; and,

**Whereas,** according to the Dexter Township Assessor’s property file of Lot 3, the assessed value of Lot 3 in 1990 was \$2,900, though there is no record that the “unbuildable” status was removed; and,

**Whereas,** on April 18, 1991, an agent for the applicant applied to the Dexter Township Zoning Board of Appeals for front yard setback and minimum building elevation relief for Lot 3 of the Mach I Subdivision; and,

**Whereas,** for reasons stated in the approved minutes of the May 14, 1991 Zoning Board of Appeals meeting, which are further explained in Patrick Sloan’s report dated February 12, 2007, the ZBA denied the variance request and affirmed its actions taken in 1974; and,

**Whereas**, On June 11, 1991, the Zoning Board of Appeals granted a side yard setback variance on the north side of Lot 2 for a garage. This variance allowed for a 12' side yard setback on the north side of Lot 2. This decision conflicted with the intent of the June 1974 decision in two ways: First, it would be nearly impossible to expand Lot 1 to 35,900 square feet by moving its southern lot line south. Moving that lot line at this point would increase the nonconformity and possibly place a portion of Lot 2's garage onto Lot 1. Second, the June 1974 decision to maintain a minimum 15-foot side yard setback on the north side of Lot 2 was not upheld; and,

**Whereas**, on November 7, 2006, Daniel J. Schairbaum, attorney for the applicant, wrote a letter to Patrick Sloan, Dexter Township Director of Planning and Zoning, contending that Lot 3 is a legal, buildable lot; and,

**Whereas**, on February 12, 2007, Patrick Sloan, Dexter Township Director of Planning and Zoning, wrote a report to the Dexter Township Zoning Board of Appeals describing the timeline of events relating to Lot 3, and provided supporting documentation in the form of ZBA meeting minutes, Washtenaw County Register of Deeds records, and legal inquiries and opinions that were available at that time; and

**Whereas**, on April 26, 2007, Stephen Estey, attorney for the applicant, wrote a letter to the Zoning Board of Appeals and Patrick Sloan contending that Lot 2 was sold in or about October 1974 and included a Notice of Interest (Liber 1495, Page 82) that was dated October 17, 1974; and,

**Whereas**, on May 1, 2007, Peter Flintoft, Dexter Township Attorney, wrote a letter of response to Mr. Estey's April 26, 2007 letter, and stated that the Notice of Interest, by itself, does not constitute a sale; and,

**Whereas**, on June 8, 2007, Patrick Sloan wrote a report to the Dexter Township Zoning Board of Appeals that provided an update on the information and timeline of events relating to the three (3) lots. Among this information were the recent findings of Peter Flintoft; and

**Whereas**, the Dexter Township Zoning Board of Appeals has reviewed the record and history of the status of Lot 3 and renders its opinion in accordance with Section 4.05.C of the Dexter Township Zoning Ordinance; and,

**Be it therefore resolved** that the Zoning Board of Appeals recognized the following existing nonconformities:

1. A lot area of less than 2 acres.
2. A lot width of less than 150 feet.

**Be it also resolved** that the following variances are approved:

1. To allow a 56 foot front yard setback from North Territorial Road, with the practical difficulty being the restrictive width of the lot.
2. To allow a 50 foot front yard setback from Dexter Townhall Road, with the practical difficulty being the grade differential in the northeast corner and drain field distances.
3. To allow a 15 foot rear yard setback on the north side, with the practical difficulty being the restrictive width of the lot.

**Be it also resolved** that the following conditions shall apply to the issuance of these variances:

1. That the applicant reimburses Dexter Township for all attorney fees it has incurred as a result of this application.
2. That the applicant obtains a driveway permit from the Washtenaw County Road Commission.
3. That the driveway be located as far north as possible on Dexter Townhall Road.

4. That Lot 3 continues to accept the current level of storm water runoff from Lot 2.

Godek **YES** Gajewski **YES** Cormier **NAY** Kelly **YES** Burch **YES**

Resolution Adopted

<b>Agenda Item #</b>	<b>4</b>
<b>Appeal Number:</b>	07-ZBA-661
<b>Property Tax ID:</b>	04-24-300-007
<b>Applicant Name(s):</b>	Ali Damsaz (owner and applicant)/Optima Oil Company/Huron Creek Party Store
<b>Property Address:</b>	6100 Dexter-Pinckney Road

<b>Variances Requested Per Submitted ZBA Application:</b>				
<b>Section</b>	<b>Current</b>	<b>Requested</b>	<b>Permitted</b>	<b>Description/Notes</b>
12.01.E.1	1.85 acres (net)	1.85 acres (net)	2 acres	Recognize lot is less than 2 acres. No change is proposed.
12.01.E.3.a	30.7 ft. (principal building)*	30.7 ft. (principal building)*	150 feet	Recognize front yard setback for principal building is less than 150 ft. No change is proposed.
12.01.E.3.a	72.6 ft. (shed)*	72.6 ft. (shed)*	150 feet	Recognize front yard setback for shed is less than 150 ft. No change is proposed.
16.04.A.2	Less than 200 feet	Less than 200 ft.	300 feet	Recognize that existing underground storage tanks are less than 300 feet from a residential well. No change is proposed.
16.04.A.4	45 feet (south entrance)	45 feet (south)	35 feet	Recognize that the southern driveway approach width exceeds 35 feet. No change is proposed.
16.04.A.5	24.3 ft. (western pump island)*	24.3 ft. (western)*	30 feet	Recognize that the western pump island is less than 30 feet from the road right-of-way. No change is proposed.
18.09	Outdoor display of merchandise	Outdoor display of merchandise	No	Recognize outdoor display of merchandise (ice coolers and propane tanks), which is not permitted outside of a Commercial District.
18.18.B	Accessory structure (shed) located less than 10 feet from another structure	Accessory structure (shed) located less than 10 feet from another structure	No	Recognize that the existing shed does not meet the separation distance standards, as it is located less than 10 feet from another structure. No change is proposed.
18.18.C	Accessory structure (western pump island) located in a front yard	Accessory structure located in a front yard	No	Recognize that the western pump island is located within the front yard area. No change is proposed.
19.03.B & C	Nonconforming use of land (sign)	Enlargement and extension of nonconforming use (sign)	No	Recognize the existing nonconforming use (sign only). Also, to <u>lower</u> the sign height from 7' 10 7/16" to 4' 11" and <u>extend</u> the sign width from 5' 7 7/16" (5' 11 7/16" for the concrete pad) to 11' 8" (12' for the concrete pad). The proposed extension would be eastward. Sign



				area would increase from 39.18 sq. ft. to 48.62 sq. ft.
21.03.B. 21	Less than 30 parking spaces	Less than 30 parking spaces	1 space per 100 sq. ft. of gross floor area, plus 1 per employee	Recognize that there are no parking spaces delineated, either by signage, striping, or other means. With approx. 1,430 square feet of building and at least 1 employee, a minimum of 30 parking spaces would be required. No change is proposed.
21.04.A	No parking spaces delineated, either by signage or striping	No parking spaces delineated, either by signage or striping	Parking areas shall be designed and marked for safe and orderly movement	Recognize that there are no parking spaces delineated, either by signage, striping, or other means. No change is proposed.

Persons notified were read into the record by Chair Burch.

Sloan summarized the application for the public and the Board.

Chair Burch asked the applicant if he had any additional information to add. He did not.

**Public Comment :**

James Lumley  
4000 Washtenaw  
Ann Arbor

Stated that you cannot see the sign from the north and not until you come right up onto it.

John Cutter had the same opinion.

Cormier – Stated that in 2005 some light bulbs were removed from the sign. Questioned whether or not those bulbs were replaced. Mr. Damsaz stated that there is a new manager now and she may have replaced the bulbs, he wasn't sure.

Kevin Sullivan, adjacent property owner. Concerns were:

- There was never a site plan submitted not in compliance with the court order.
- There are 12 variances being requested, 9 of which should be addressed in a site plan.
- Easements are there for a reason.
- Why does the legal notice that were sent only indicated that the variance being requested is for the sign when 12 recognitions are being requested.
- There is a new lighted ATM sign in the window.
- Three accidents since site has been reconfigured. No accidents in the prior 15 years.

David Wayman  
9605 Huron Creek

The history of the property has been that all past owners have tried to improve on the site and have not been able to. Sign is a secondary issue, the site plan is the primary issue. Can the PC and the ZBA meet concurrently ?

After discussion a motion was made by Kelly to table this variance request regarding the sign to possibly have a joint meeting with the Planning Commission. Sloan to work with the attorney to determine the joint meeting and notice requirements. If not possible, then to have the Chair of PC and ZBA and one member from each Board to meet with the attorney to determine what direction the site plan and variance request should go in.

Supported by Gajewski                      Carried

**VII. Public Comment:** None

**VIII. Concerns of Board Members, Zoning Administrator, Recording Secretary**

Cormier indicated that after November 1, 2007 new meeting date would work well with his schedule.

**IX. Adjournment**

The meeting was declared adjourned at 10:20 p.m.

Respectfully submitted,

DeNette Bolyard,  
Recording Secretary

Pat Kelly,  
Secretary