



# DEXTER TOWNSHIP

## ZONING BOARD OF APPEALS

6880 DEXTER-PINCKNEY ROAD  
DEXTER, MI 48130

TELEPHONE: 734-426-3767  
FAX: 734-426-3833

WWW.TWP-DEXTER.ORG

STEVE BURCH,  
CHAIR  
BILL GAJEWSKI,  
VICE CHAIR  
PAT KELLY,  
SECRETARY  
MARY ADAMS  
JAMES CORMIER  
PAUL GODEK, ALT  
WENDELL WAGNER, ALT  
DENETTE BOLYARD,  
RECORDING SECRETARY

### REGULAR MEETING OF THE ZONING BOARD OF APPEALS

#### Tuesday, September 2, 2008 7:00 PM

Members present: Steve Burch, Chairman, Bill Gajewski, Vice Chairman, Pat Kelly, Secretary, Mary Adams, Planning Commission Representative

Absent: James Cormier

Also Present: Patrick Sloan, Director of Planning and Zoning

- I. Call to Order:** The meeting was called to order by Chairman Burch at 7:06 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** – August 5, 2008 Motion by Gajewski, supported by Adams to defer the minutes until the next meeting. Carried
- V. Public Comment- Non Agenda Items:** None
- VI. Action Items:**

<b>Agenda Item #</b>	1
<b>Appeal Number:</b>	08-ZBA-684
<b>Property Tax ID:</b>	04-06-355-017, 04-06-355-018, 04-06-355-020, 04-06-358-001, and 04-06-358-002
<b>Applicant Name(s):</b>	Karen Nolte (owner and applicant) and Judith Quinlan (owner and applicant)
<b>Property Addresses:</b>	14415 Edgewater, 14422 Edgewater, and 14450 Edgewater

<b>Variations Requested Per Submitted ZBA Application:</b>					
<b>Section</b>	<b>Previous</b>	<b>Current</b>	<b>Requested</b>	<b>Permitted</b>	<b>Description/Notes</b>
12.02(E)(1)	Nolte (-001, -002, -018) = <b>Approx. 0.70 ac.</b>	Nolte (-001, -002, -018, and -020*) = <b>Approx. 1.02 ac.</b>	Nolte (-002 and -020*) = <b>Approx. 0.45 ac.</b>	1 acre	To allow the sale of 04-06-358-001 and 04-06-355-018 to Judith Quinlan, lowering the nonconforming lot area.
12.02(E)(1)		Quinlan (-017) = <b>Approx. 0.12 ac.</b>	Quinlan (-001, -017, and -018) = <b>Approx. 0.68 ac.</b>	1 acre	To allow the purchase of 04-06-358-001 and 04-06-355-018 from Karen Nolte, increasing the lot area to be less nonconforming.
12.02(E)(2)	Nolte (-018) = <b>Approx. 45 ft.</b>	Nolte (-018) = <b>Approx. 45 ft.</b> and (-020*) = <b>Approx. 135 ft.</b>	Nolte (-002) = <b>Approx. 45 ft.</b> and (-020*) = <b>Approx. 135 ft.</b>	150 feet	To allow the sale of 04-06-358-001 and 04-06-355-018 to Judith Quinlan, creating a nonconforming lot width/frontage for -002 and recognizing nonconforming lot width/frontage for -020.

12.02(E)(2)		<b>Quinlan (-017) = Approx. 45 ft.</b>	<b>Quinlan (-001) = Approx. 135 ft. and (-017, and -018) = Approx. 70 ft.</b>	150 feet	To allow the purchase of 04-06-358-001 and 04-06-355-018 from Karen Nolte, creating a nonconforming lot width/frontage for -001 and increasing the lot width/frontage of -017 and -018 to be less nonconforming.
19.01(A)(1)	*Parcels 04-06-355-020 and 04-06-358-003 were contiguous and, therefore, recognized as 1 undivided parcel	*Parcel 04-06-355-020 was sold by Waldo Hack Trust to Karen Nolte without ZBA approval	*To allow Karen Nolte to purchase parcel 04-06-355-020 from Waldo Hack Trust.	No	*To allow the purchase of parcel 04-06-355-020, which was sold by Waldo Hack Trust without the required approval from the ZBA.

*\*Recently sold/transferred without a variance.*

This variance request was tabled from the May 6, 2008 Zoning Board of Appeals meeting.

Sloan gave a brief history of the applicant's request.

Kelly questioned whether or not Nolte and Rand signed and recorded the agreement drawn up by the Township Attorney, Peter Flintoft.

Since this request was related to the last agenda item Kelly made a motion to move this item to the next to the last item on the agenda. Supported by Gajewski. Carried

<b>Agenda Item #</b>	2
<b>Appeal Number:</b>	08-ZBA-690
<b>Property Tax ID:</b>	04-02-480-036
<b>Applicant Name(s):</b>	Gwendolyn Fellenberger (owner and applicant)
<b>Property Address:</b>	9294 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>
12.02(E)(1)	.17 acres	.17 acres	1 acre	Recognize lot area is less than 1 acre. <u>No changes are proposed.</u>
12.02(E)(2)	74 feet	74 feet	150 feet	Recognize lot width/frontage is less than 150 feet. <u>No changes are proposed.</u>
12.02(E)(3)(a)/18.23(A) Dexter-Pinckney Rd.	11.23 ft. (home); 26 ft. (garage)	Same as current but 24.5 ft. for proposed addition	100 feet	To construct an addition to connect the existing single-family home and garage.
12.02(E)(3)(a)/18.23(A) Dexter-Pinckney Rd.	-1 ft. (shed)	42.1 ft. (shed)	100 feet	To relocate the shed from its current placement to the west side of the existing garage.
12.02(E)(3)(a)/18.23(B)	34 ft. (home); 47 ft. (garage)	Same as current but 47 ft for proposed addition	50 feet	To construct an addition to connect the existing single-family home and garage.
12.02(E)(3)(b) East side of home	0 ft. (home)	0 feet (home)	5 feet	Recognize side yard setback on the east side of the home is less than 5 feet. <u>No changes are proposed.</u>
12.02(E)(4)	21.13%	25.09%	25.00%	To create nonconforming lot coverage via the proposed

				addition.
18.22(A)	18.5 feet	54.5 feet	26 feet	To increase the front (road) elevation on the south side from a nonconforming 18.5 ft. to a conforming 54.5 feet.

This item was tabled from the August 5, 2008 meeting to allow time to investigate ownership of the riparian property and determine whether it was appropriate to use the riparian property in question for purposes of calculating lot coverage.

Sloan distributed an opinion paper concerning riparian property from Peter Flintoft, the township attorney, dated August 10, 2008 (attached to these set of minutes). Utilizing the opinion paper as ~~guidance~~ guidance, it was determined that the area of the riparian property between the Fellenberger lot line and the ordinary high water mark of the lake could be used by the applicant in the calculation of lot coverage.

- Burch asked that in light of the guidelines from Peter should a formal survey be requested.

Carol Grove, the applicant's surveyor, stated that the Fellenberger survey met the standards of a PA 132 survey with the exception of some missing text.

Mr. Sloan stated that he could not accurately determine lot coverage or the waterfront setback with the current Fellenberger survey due to the lack of a clearly defined ordinary high water mark.

- Kelly stated that the high water mark of Portage lake has been set by a court order. .
- Gajewski said that the high water mark of the lake was set at 851.54' above sea level. Lot coverage under 25% would be ok.
- Kelly indicated that the ZBA has steadfastly held conformance to the 25% lot coverage standard.
- Burch stated that 25% lot coverage is a big issue. He also questioned whether or not the ZBA could be confident that the applicant would not exceed the 25% standard.

Gajewski made a motion to approve as requested as outlined in Patrick Sloan's report dated July 7, 2008. Supported by Adams. The practical difficulty being the placement of the existing house and garage, and small size of lot.

Kelly stated that she does not support approval of the motion because the 25% lot coverage standard is exceeded. She also believes that the lot coverage standard can easily be met by removing one or both of the storage sheds on the property.

Sloan stated that lot coverage might not be held to 25.09% after lot coverage is recalculated using lot area as determined by the court-determined ordinary high water mark.

Gajewski suggested adding a condition to the motion to remove the detached shed if the re-calculated lot coverage is over 25%.

Kelly re-stated that she would not support a motion that included a variance for lot coverage.

Gajewski offered an amendment to his original motion to remove the variance from lot coverage standards of Section 12.02(E)(4) and to require removal of the existing detached shed if the recalculated lot coverage exceeded 25%.

Adams supported the amendment.

Kelly confirmed that her understanding of the amended motion is that approval would mean that lot coverage will not exceed 25% and, if it does, the existing detached shed will be removed.

A roll call vote was taken on the motion

**ADAMS – YES      BURCH – YES      KELLY – YES      GAJEWSKI – YES**

Motion Carried

Jackie Mathews, 9306 and 9312 Dexter-Pinckney Rd, asked how the property owners in the same situation as the Fellenbergers with respect to riparian property ownership could determine the status of their property.

Pamela Joll, 8596 Portage Lake Blvd, asked how many properties this would affect.

Joe Phillips, attorney for Gwendolyn Fellenberger, asked if he may answer the question. He indicated that he has talked with Peter Flintoft numerous times concerning the ownership status of riparian properties. Mr. Phillips stated that a solution to clear up the issue of ownership for property owners that do not “own” the riparian property in front of their homes would be to either seek an amendment to the original plat or go to litigation with the lake bottom owner. Mr. Phillips also stated that if affected property owners had used the riparian strips of land unimpeded for long periods of time that adverse possession of the riparian property would apply. In addition, some areas of riparian law dictate that the property cannot be taken from them. He will have more conversations with Fellenberger and invites the neighbors to participate.

Mark Teicher, Attorney, present for another case, said that he differs with some of the Board interpretations.

<b>Agenda Item #</b>	3
<b>Appeal Number:</b>	08-ZBA-693
<b>Property Tax ID:</b>	04-18-180-010
<b>Applicant Name(s):</b>	Elizabeth Link & Aaron Wallis
<b>Property Address:</b>	7281 Webb’s Shore Drive

<b>Variances Requested Per Submitted ZBA Application:</b>				
<b>Section</b>	<b>Current/Previous</b>	<b>Requested</b>	<b>Permitted</b>	<b>Description/Notes</b>
12.02(E)(1)	About .206 acres (all 3 lots); About .038 acres (lot -010)	Same	1 acre	Recognize lot area is less than 1 acre. <u>No changes are proposed.</u>
12.02(E)(2)	About 86.36 ft. (lot -010)	Same	150 feet	Recognize lot width is less than 150 feet. <u>No changes are proposed.</u>
18.23(A)	Unknown	*Approx. 10 ft. from the ROW	50 feet	To allow the replacement shed to be built within the front yard setback area from Webb’s Shore Drive.

Chair Burch informed the ZBA and public that, due to the length of the list of persons notified for the variance request, he would not read aloud, noting that the list is on file at the Township.

Sloan gave a brief summary of his report.

Mr. Wallis stated that the existing shed replaced an old shed which was run down. He indicated that he did not think he needed a permit because he did not consider the new shed permanent.

- Burch said that the shed is less intrusive than some other sheds in the area.
- Kelly asked if the new roof was leaking because she observed a tarp during a site visit. Mr. Wallis said no, the tarp was used because a stop work order had been issued by the Township. Kelly said she would not have any concerns with approving if the shed could be moved back a couple of feet away from the road and closer to the trees and fence, the fence likely being the property line.

Kelly made a motion to approve a 2 foot rear yard setback to allow for placement of the existing 12' x 12' shed and a front yard setback as required for same. Patrick Sloan, Director of Planning and Zoning, will measure and calculate the front yard variance after the shed is relocated to 2' from the rear yard property line.

The practical difficulty is the odd triangular shape and small size of the lot. Noting that the shed is replacing a 10' x 10' shed and that lot coverage for the property is well under 25%.

Gajewski supported

Dennis Horn, 7233 North Lake Orchard, owns property behind the applicant. He stated he has no problem with granting the request as long as there is no additional clearing.

Roll Call Vote

**ADAMS – YES      BURCH – YES      KELLY – YES GAJEWSKI – YES**

Motion Carried

<b>Agenda Item #</b>	4
<b>Appeal Number:</b>	08-ZBA-694
<b>Property Tax ID:</b>	04-01-181-002
<b>Applicant Name(s):</b>	Paul & Nancy Godek
<b>Property Address:</b>	9669 Portage Lake Ave.

<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)	About .128 acres	Same	1 acre	Recognize lot area is less than 1 acre. <u>No change is proposed.</u>
12.02(E)(2)	About 35 feet	Same	150 feet	Recognize lot width is less than 150 feet. <u>No change is proposed.</u>
18.23(A)	About 65 feet	About 46.5 ft.	50 feet	To reduce the front yard setback from the road by adding a garage and upstairs addition.
18.23(B)	37' 11" (to house); About 13' to deck	Same	50 feet	Recognize existing front yard setback nonconformities from Portage Lake. <u>No changes are proposed.</u>
12.02(E)(3)(b)	About 2' (north side[deck only])	Same	7 feet	Recognize side yard setback from the deck stairs to the north property line is less than 7 feet. <u>No changes are proposed.</u>
12.02(E)(3)(b)	1' 7.5" (south side)	1' 7.5" (south side)	7 feet	To extend the nonconforming side yard setback on the south side by adding a garage and upstairs addition to be set back 1' 8".
12.02(E)(4)	22.53%	29.23%	25%	To create a nonconforming lot coverage by adding a garage and upstairs addition.

18.22(A)	24 feet	Same	26 feet	To extend the nonconforming front elevation of the house by adding a garage and upstairs addition.
----------	---------	------	---------	--

Chair Burch informed the ZBA and public that, due to the length of the list of persons notified for the variance request, he would not read aloud, noting that the list is on file at the Township.

Sloan gave a brief summary of his report.

Paul Godek, applicant, was present as well as his attorney Mark Teicher, and Tim McCotter, architect.

Mr. Godek addressed the Board and distributed a letter dated August 12, 2008 which listed the reasons why he felt his application request complied with section 4.05.C a through h.

He also stated that he felt that due to safety issues, specifically the potentially long period of time required to clear snow from a vehicle in the event of a medical emergency in the winter he should be granted his requested variance.

- Kelly stated that she has questions concerning the lot area used by the applicant in the calculation of lot coverage and that lot area needed to be determined prior to consideration of the requested variances. She would like Peter Flintoft to review and give a recommendation.

Discussion was held regarding the lot area calculations, the ordinary high water mark line and the low line. Mr. Godek felt that the low water mark should be used.

Open to Public for Comments –

None

Kelly made a motion to defer this request pending opinion of Township Attorney regarding the lot area that should be considered in the calculation of lot coverage.

Adams supported the motion.

- Gajewski stated that he felt the rain water management was not an issue and that a garage is a reasonable request.

Motion carried 4-0

<b>Agenda Item #</b>	1
<b>Appeal Number:</b>	08-ZBA-684
<b>Property Tax ID:</b>	04-06-355-017, 04-06-355-018, 04-06-355-020, 04-06-358-001, and 04-06-358-002
<b>Applicant Name(s):</b>	Karen Nolte (owner and applicant) and Judith Quinlan (owner and applicant)
<b>Property Addresses:</b>	14415 Edgewater, 14422 Edgewater, and 14450 Edgewater

Deferred from earlier in the meeting.

Kelly made a motion to approve as requested (see table on page 1 (one) in the minutes.)

The following conditions were applied:

- Quinlans combine lot 017 and 018.
- Quinlans acknowledge that 001 does not have riparian access through 018 and 018
- Lots meet the standards of the Dexter Township Zoning Ordinance.
- Nolte parcels cannot be sold or transferred without a variance . The Nolte document has been recorded and the Quinlans have verbally agreed to sign.

Gajewski supported the motion. Kelly stated the practical difficulty was that there would be fewer nonconformities.

Roll Call Vote –

**ADAMS – YES      BURCH – YES      KELLY – YES      GAJEWSKI – YES**

Motion Carried

<b>Agenda Item #</b>	5
<b>Appeal Number:</b>	08-ZBA-695
<b>Property Tax ID:</b>	04-06-355-020 & 04-06-358-002
<b>Applicant Name(s):</b>	Karen Nolte & Tina Rand
<b>Property Address:</b>	14450 Edgewater

<b>Variances Requested Per Submitted ZBA Application:</b>				
<b>Section</b>	<b>Current</b>	<b>Requested</b>	<b>Permitted</b>	<b>Description/Notes</b>
12.02(E)(1)	About .45 acres (both lots); About .32 (lot -020)	Same	1 acre	Recognize lot area is less than 1 acre. <u>No change is proposed.</u>
12.02(E)(2)	129.39 ft. (road side of lot -020); 91.63 ft. (water side of lot -020)	Same	150 feet	Recognize lot width is less than 150 feet. <u>No change is proposed.</u>
18.23(A)	About 23.6 ft. (lot -020)	About 15.5 ft.	50 feet	To reduce the front yard setback from the road by adding onto the garage, extending the roadside porch, and building a second story addition to the home.
18.23(B)	About 45 ft. (lot -020)	About 45 ft.	50 feet	Extend the existing front yard setback nonconformities from Half Moon Lake by adding onto the lakeside porch and adding a second story to the home.

Chair Burch informed the ZBA and public that, due to the length of the list of persons notified for the variance request, he would not read aloud, noting that the list is on file at the Township.

Sloan gave a brief summary of his report.

Kelly said she does not have any concerns with the second story. She indicated that she does, however, have concerns with the garage. Parking is an issue.

Ms. Nolte said she needed a parking garage. Pole barn is used for storage.

Open to Public for Comment –

- Richard Short 14432 Edgewater, Gregory has qualms with changing the footprint on the water side and he felt it would block his view of the lake.

Gajewski made a motion to ~~support~~approve as requested. Adams supported.

Roll Call Vote – 3-1

**ADAMS – YES**

**BURCH – YES**

**KELLY – NAY**

**GAJEWSKI – YES**

Motion Carried

**VII. Public Comment:** None

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

Kelly reminded everyone of the September 30, 2008 joint meeting with the Planning Commission and Township Board.

**IX. Adjournment** – Meeting was adjourned at 10:00 p.m.

Respectfully submitted,

DeNette Bolyard,  
Recording Secretary

Pat Kelly,  
Secretary

These minutes have been approved by majority vote at the  
\_\_\_\_\_ Zoning Board of Appeals Meeting.