



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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PAUL GODEK, ALT
WENDELL WAGNER, ALT

DENETTE BOLYARD,
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday, October 7, 2008

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

Absent: James Cormier

Also Present: Patrick Sloan, Director of Planning and Zoning (DPZ)

- 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:** Kelly motioned and Gajewski supported approval of the agenda as amended by moving approval of the minutes to after action items. Motion carried.
- IV. Approval of Meeting Minutes:** *(Moved to after action items.)*
- V. Public Comment- Non Agenda Items:** None
- VI. Action Items:**

Action Item #	1
Appeal Number:	08-ZBA-698
Property Tax ID:	04-29-200-013
Applicant Name(s):	Kimber Sipperley
Property Address:	4782 Cottonwood Lane

Variations Requested Per Submitted ZBA Application:					
Section	Current	Requested	Permitted	Approved	Description/Notes
18.23(A)	Approx. 47 ft	Approx. 36 ft	50 feet	40 feet	Recognize front yard setback is less than 50 feet and allow further encroachment via a front porch addition.
18.18(D)	49.15%	Same	25% max.	Not needed	Recognize that the lot coverage of accessory structures (pool and shed) is larger than 25% of the ground floor area of the principal structure. <u>No changes are proposed.</u>

Chair Burch noted that he spoke with Kimberly Sipperley during his site visit to the subject property but that her variance request was not discussed.

Chair Burch read aloud persons noticed for this request.

DPZ Sloan gave a brief summary of his application report. He noted two changes to the variations requested. First, further investigation revealed the current front set-back is approximately 55 feet rather

than 47 feet which changes the requested front set-back variance from 36 feet to 42 feet. Secondly, a site visit revealed that a preexisting swimming pool has been removed, thereby eliminating the need for relief from Section 18.18.D.

Chair Burch read aloud letters of support for the requested variances from members of the public as follows:

1. 09-25-2008 from Joe and Lorin Kummer, 4782 Cottonwood Lane, Chelsea, MI 48118
2. 09-23-2008 from Deborah Mantel, 4798 Cottonwood Lane, Chelsea, MI 48118
3. 09-30-2008 from Bonnie and Ravi Desai, 4878 Cottonwood Lane, Chelsea, MI 48118

Keith Sipperly, father of the applicant, 9191 Brandau Rd. Levering, MI 49755 stated that he had helped his daughter plan and design the renovations to the house. He also stated that the plans had developed over time and that neither he nor his daughter had intentionally violated the ordinance.

Kimber Sipperly, applicant stated she believed the pool to be a safety hazard for small children and that she did not intend to replace it.

Jeff Brown, contractor for the renovation project of Dexter Builders, 8820 Jackson Rd, stated that a permit for the project should have been pulled by his company but wasn't.

Comments of the Board:

- Gajewski – No concerns. Reasonable request. Practical difficulty is placement of the current home. 50 foot setbacks encourage house designs that are car rather than people friendly.
- Kelly – Reasonable request. Agrees with Gajewski that 50 foot setbacks are greater than needed but that is what the Zoning Ordinance requires. Practical difficulty is the placement of the existing structure and the steep topography of the rear yard.
- Adams – Reasonable request. Agrees with stated practical difficulties.

Public Hearing:

- Debbie Link, 4718 Cottonwood Lane, Chelsea, MI 48118 – Neighbor of the applicant. Supports request.

Motion by Gajewski, supported by Kelly to grant relief from Section 18.23 (A) and approve a 40 foot front yard setback variance.

Kelly noted that the motioned relief complies with the intent of the Zoning Ordinance to preserve rural character and that the impact to the neighborhood is minimal since Cottonwood Lane, a paved public road, is much wider than roads in other similar developments in the township that are served with private roads.

Roll Call Vote:

Adams: YES Gajewski: YES Kelly: YES Burch: YES

Chair Burch declared the motion carried.

Agenda Item #	2
Appeal Number:	08-ZBA-694
Property Tax ID:	04-01-181-002
Applicant Name(s):	Paul & Nancy Godek
Property Address:	9669 Portage Lake Ave.

Variations Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
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.

(Action on this variance request was deferred at the September 2, 2008 ZBA meeting pending receipt of an opinion by the Township Attorney regarding the calculation of lot coverage for the Godek property.)

DPZ Sloan referenced his September 23, 2008 memorandum to the ZBA wherein he provided the opinion of Peter Flintoft, Township Attorney regarding the calculation of lot coverage for the Godek request. Per the memo, Mr. Flintoft recommended that the ZBA require the applicants to revise their survey to show the ordinary high water mark and re-calculate the lot area using the ordinary high water mark as a lot line. Sloan noted that Mr. Flintoft's advice was consistent with the Zoning Ordinance and the Michigan Natural Resources and Environmental Protection Act. Sloan stated that, per provisions of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994), the ordinary high water mark for Portage Lake was established law at an elevation of 851.54 feet by Circuit Court Judge Breakey's order dated February 7, 1949.

DPZ Sloan described a recent ZBA appeal from a resident on Portage Lake where land area was also in question and stated that that applicant's surveyor had determined the Court ordered lake elevation from a marker at the corner of Dexter-Pinckney and Wylie roads.

Mr. Mark Teicher, the applicant's attorney, stated that he thought there was also an elevation marker on Dexter-Pinckney Road near the old Three Kegs Party Store.

Mr. Paul Godek stated that his lot was old and that the granting of his requested variances represented "substantial justice". He concurred that the law (per the Court order) established the lake level at 851.54, but he believed that his lot coverage should be calculated using the lake level line measured by his

surveyor on January 31, 2005. Mr. Godek stated that he would consider using a higher lake level than the one measured by his surveyor to be a “taking” of his property.

Kelly asked Mr. Godek if his property was a lot in a platted subdivision. Godek replied he thought so. Kelly stated that if the Godek property is a lot in a platted subdivision, a “taking” probably doesn’t apply since the accreted land doesn’t “belong” to the Godeks.

Motion by Kelly, support by Gajewski, to table consideration of the appeal to allow the applicant time to produce a survey indicating the Court ordered lake level of 851.54 feet. The motion was carried unanimously on a voice vote.

Agenda item #	3
Appeal Number:	08-ZBA-696
Property Tax ID:	04-18-100-027
Applicant Name(s):	Donald Brooks
Property Address:	7571 Noah’s Landing

Variations Requested Per Submitted ZBA Application:

<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Approved/ Recognized</u>	<u>Description/Notes</u>
12.02(E)(1)	Approx. 4,950 sq. ft. (Approx. 0.11 acres)	Same	1 acre	< 1 acre	Recognize lot area is less than 1 acre. <u>No change is proposed.</u>
12.02(E)(2)	49.5 feet	Same	150 feet	< 150 feet	Recognize lot width is less than 150 feet. <u>No change is proposed.</u>
18.23(A) (road)	Approx. 19.5’ (house)	Same	50 feet	19.5’ to house	Recognize front yard setback of the house is less than 50 feet. <u>No change is proposed.</u>
18.23(A) (road)	Approx. 8.5’ (shed)/ Approx. 18.5’ (well house)	Same	50 feet	8.5’ to shed 18.5’ to well house	Recognize front yard setbacks of the shed and well house are less than 50 feet. <u>No changes are proposed.</u>
18.23(B) (water)	36.5’ (house w/ no deck)	28’ (new deck)	50 feet	19.5 29.5’ to landing/steps 36.5’ to house	Recognize front yard setback of the house (no change) and allow further encroachment into the front yard setback via a 10-foot deck.
12.02(E)(3)(b)	0’ (shed)/-2’ (well house)	Same	5 feet	0’ to shed -2’ to well house	Recognize side yard setbacks of the shed and well house are less than 5 feet. <u>No changes are proposed.</u>
18.22(A)	20’ 4”	Same	26 feet	20’ 4”	Recognize that the front elevation width of the house is less than 26 feet. <u>No changes are proposed.</u>

Chair Burch read aloud persons noticed for this variance request.

Sloan gave a brief summary of the applicant’s request.

Mr. Brooks addressed the Board and stated that the cottage is narrow and the deck would only be 20’ x 10’. He also noted that his neighbors have a similar deck.

Comments of the Board:

- Kelly – Does not support request as there is no practical difficulty. The property does not have any topography issues and the lot is no smaller or narrower than most surrounding properties. Most neighbors in the immediate neighborhood do not have decks. Would support a setback variance to build a wide set of stairs to accommodate proper and adequate egress on the lakeside of the home.
- Gajewski – A 10' deck is a reasonable request. Stormwater management is likely not needed. Request meets the minimum necessary for reasonable use standard. Decks bring residents closer to the lake and are pervious.
- Adams – Granting the variance would allow further encroachment into the lakeside buffer area. Questions when the deck on the house to the south was installed. Approval of requested variance may prompt others to apply for similar variances.

Public Hearing: No public comment.

Motion by Gajewski to approve the variance as requested with the condition that the applicant provide a sufficient storm water management plan for the entire home. Granting approval will improve the overall lake quality.

Motion failed due to a lack of support.

Kelly questioned whether or not the applicant would be willing to alter his plans to a design similar to the neighbor to the north (wide set of three steps) for consideration at the next ZBA meeting. Mr. Brooks stated that he would prefer a decision at this meeting.

Motion by Adams, support by Kelly to approve a variance for a landing of sufficient size to allow for a door swing and a minimum of steps per current building code.

Kelly stated that the required size of the landing would likely be about 4-foot by 6-foot and 3 steps would be required. She also noted that it would be preferable to provide dimensions so that the exact setback variance would be known and approved. Kelly proposed a friendly amendment to the motion on the floor to allow a 29.5 foot waterside setback variance to provide for a 4-foot by 6-foot landing deck with 3 steps to allow for a safe lakeside exit from the existing home and also to recognize existing non-conformities per the submitted application.

Adams concurred with the amendment to her motion.

Roll Call Vote:

Kelly: YES Gajewski: YES Adams: YES Burch: YES

Chair Burch declared the motion carried.

Agenda Item #	4
Appeal Number:	08-ZBA-697
Property Tax ID:	04-01-483-007
Applicant Name(s):	Lynn Milroy
Property Address:	9045 McGregor

Variances Requested Per Submitted ZBA Application:

<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Recognized/ Approved</u>	<u>Description/Notes</u>
12.02(E)(1)	Approx. 11,325.6 sq. ft. (Approx. 0.26 acres)	Same	1 acre	< 1 acre	Recognize lot area is less than 1 acre. <u>No change is proposed.</u>
12.02(E)(2)	Approx. 70 feet	Same	150 feet	< 150 feet	Recognize lot width is less than 150 feet. <u>No change is proposed.</u>
18.23(A)(4)(m) (McGregor Rd)	Approx. 80' (house)	Approx. 80'	100 feet	80 feet	Recognize front yard setback of the house is less than 100 feet and allow an extension of this nonconformity via an addition between the existing house and garage.
18.23(B) (Portage Lake, to the west)	35.4' (deck)/ Approx. 42' (house)	33.4' (deck)/ Approx. 42' (house)	50 feet	33.4' (to deck) 42' (to house)	Recognize front yard setbacks of the house and deck on the west side are less than 50 feet and allow an increase in these nonconformities via additions to the house and deck.
18.23(B) (Portage Lake, to the south)	1.6' (house)	1.6' (house)	50 feet	1.6' (to house)	Recognize front yard setback of the house on the south side is less than 50 feet and allow an extension of this nonconformity via an addition between the existing house and garage.
12.02(E)(3)(c)	12' (house)/ 12.3' (deck)	Same, but 12'.3' for house and deck additions	30 feet	Recognize 12' to house 12.3' to deck & addition	Recognize rear yard setbacks of the deck and house are less than 30 feet and allow an extension of these nonconformities via additions of the house and deck.

Persons noticed were read aloud by Chair Burch.

Sloan gave a brief summary of his report regarding this request.

Comments of the Board:

- Gajewski – discussed storm water run off plan in detail.
- Kelly – survey clears up and defines lot area, doesn't appear to be a platted lot. Once concrete around south side of home is removed, there may be some infiltration.
- Adams – questioned the applicant on the soundness of the foundation.

Mr. Milroy, the applicant stated that he and his wife's intentions are to update the existing home, but it would remain a cottage. Also, they have no intention to pave the driveway and would agree to a condition that it not be paved. Looking to begin work in the spring of 2009.

Public Hearing: No public comment.

Motion by Kelly, support by Adams to recognize the existing nonconformities and approve variances per the applicant's application subject to the following conditions:

1. Removal of the concrete walkway on the south side of the home.
2. Stepping stones will be allowed, where necessary in place of the concrete walkway.

3. Storm water runoff plan to be field verified by the Director of Planning and Zoning.
4. Driveway to remain gravel and will not be paved or asphalted.

The practical difficulty is that the property is surrounded by water on two sides, is small and of irregular shape.

Roll Call Vote:

Gajewski: YES Adams: YES Kelly: YES Burch: YES

Chair Burch declared the motion carried.

IV. Approval of Meeting Minutes:

August 5, 2008 – Motion by Kelly, supported by Gajewski to approve the minutes as amended. Carried

September 2, 2008 – Motion by Kelly, supported by Gajewski to approve the minutes as amended. Carried

VII. Public Comment: None

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

Reminder of the October 30th meeting between the Planning Commission Chair and the ZBA Chair and any other members wishing to attend, at 6:00 p.m. here at the township hall.

IX. Adjournment – Chair declared the meeting adjourned at 10:35 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.