



# DEXTER TOWNSHIP

## ZONING BOARD OF APPEALS

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RECORDING SECRETARY

### REGULAR MEETING OF THE ZONING BOARD OF APPEALS

**Tuesday, February 14, 2006 7:30 PM**

Members present: Steve Burch, Chair, Pat Kelly, Secretary, Jim Cormier, William Gajewski, Wendell Wagner, Alternate

Members absent: None

Also present: DeNette Bolyard, Recording Secretary

The meeting was called to order by Chairman Burch at 7:37 p.m.. Chair Burch led the Pledge of Allegiance to the Flag.

Agenda Item: **1**  
Appeal Number: **04-ZBA-601**  
Applicant Name(s): **Thomas Prose**  
Property Address: **9485 Lakeview**  
Property Tax ID (s): **04-06-286-001**

<b>Variations Requested per submitted ZBA Application:</b>				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
18.23.A	--	42'	50' minimum	
18.23.A	--	10.3'	50' minimum	East side from easement to new garage
12.02.E.C.3	--	15'	30' minimum	West side
12.02.E.C.3	--	15'	30' minimum	South side
12.02.E.4	--	27.2%	25%	
Purpose: Allow destruction of existing single family home and detached two-car garage and construction of a new home with attached three car garage.				

Chair Burch announced that the applicant's attorney had submitted additional information as requested by ZBA. However Steve Piatt submitted a letter requesting that the ZBA table the appeal due to the application still being incomplete. Motion by Gajewski, support by Cormier to table the Prose appeal until the April 11, 2006 ZBA meeting. **Motion carried, 4-0, with member Kelly abstaining.**

Agenda Item: **2**  
Appeal Number: **05-ZBA-612**  
Applicant Name(s): **Cindy White**  
Property Address: **8401 Thurston**  
Property Tax ID (s): **04-03-300-007**

<b>Variations Requested per submitted ZBA Application:</b>					
<u>No.</u>	<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
1.	18.23.A	20'	5'	50'	From Thurston Drive to new garage overhang.
2.	18.23.A	16'	10'	50'	From the undefined easement
3.	12.02.E.3.C	14.3'			From existing home to property line on the west side.
4.	12.02.E.1				Recognize. less than one acre
5.	12.02.E.2				Recognize less than 150' wide.

**Purpose:** to construct a 24' x24' garage with attic storage.

Previous ZBA action:

- July 12, 2005 – motion passed to table consideration of the request for one month to allow the applicant the opportunity to research information regarding an access easement and “gap” adjacent to the property.
- August 9, 2005 – at the applicant’s request, a motion passed to table consideration of the request until September 13, 2005.
- September 13, 2005 – the applicant requested the appeal be tabled until further notice. The ZBA approved a motion to table the appeal to a date no later than January 10, 2006.
- January 10, 2006 – motion passed to table the appeal until no later than the July 2006 meeting.

Agenda Item: **3**  
 Appeal Number: **05-ZBA-614**  
 Applicant Name(s): **Gary Ford**  
 Property Address: **7511 Noah’s Landing**  
**Gregory, MI 48137**  
 Property Tax ID (s): **04-18-100-020 and 04-18-100-021**

<b>Variations Requested per submitted ZBA Application:</b>					
<u>No.</u>	<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
1.	18.23.A	14’ 6”	18’ 6”	50’ minimum	Front (East) setback from Noah’s Landing to proposed addition
2.	18.23.B	48’	48’	50’ minimum	Extend (West) water body setback to proposed addition

**Purpose:** Allow for the construction of a 22’ x 26’ two story addition to the existing home.

Previous ZBA action:

- August 9, 2005 - motion passed to table consideration of the request until September 13, 2005 to allow sufficient time for the applicant to remove a shed, the Zoning Administrator to grant final zoning compliance on the previous zoning permit and the applicant to provide a copy of the deed restrictions for the township attorney to review.
- September 13, 2005 - motion passed to table consideration of the request until the October 11,2005 meeting with an automatic extention until the November 8, 2005 meeting, if needed.
- December 13, 2005 - motion passed to table consideration of the request until the January 10, 2006 meeting to allow the applicant time to submit a copy of a deed for his property to the township office.

- January 10, 2006 – motion passed to table consideration of the request until the February 14, 2006 meeting to allow the applicant time to submit revised plans with less than 25% lot coverage.

Board Questions/Comments:

- Cormier commented that there were no stakes indicating the proposed construction on his site visit.
- Gajewski questioned the accuracy of the lot coverage calculation of 18.27%. Kelly responded that the area of Mr. Ford's vacant lot was used in the calculation of lot coverage, thereby reducing the lot coverage more than just the reduction in square footage of the proposed addition. Kelly went on to explain that, although Mr. Flintoft, the township attorney, had opined at the January 10, 2006 ZBA meeting that the area of Mr. Ford's vacant lot should not be used in the lot coverage calculation, Mr. Flintoft had reversed his opinion upon review of additional information concerning past precedent of the ZBA in the use of restricted access lot area in lot coverage and floor area ration calculations
- Gajewski noted that the revised application did not include a request for a waterside setback and that the originally requested 48' waterside setback was still needed for the plan as proposed. Gajewski also noted that the impact of inadequate parking was minimized by the fact that the applicant's property was at the end of a dead-end street.
- Wagner questioned whether, if approved, the ZBA should consider a condition prohibiting the future construction of a garage or carport. Kelly responded that such a condition would be unnecessary since the construction of a carport or garage would require an additional variance anyway.
- Wagner and Kelly both commented that measurements of the parking areas shown on the revised plans were not indicated. Kelly acknowledged that the plan included the minimum parking area required by the zoning ordinance for the required minimum of two parking places and that four small cars could probably be parked as the applicant had sketched on his plans. However, Kelly is still concerned about the lack of any off-street parking for overflow situations.
- Kelly commented that the past precedent of various ZBA variance approvals in the Noah's Landing neighborhood might make it difficult for the ZBA to defend the denial of a similar request by Mr. Ford. However, she believes that the substandard private roads, complete lack of off-street parking and the closeness of the dwellings puts the health, safety and welfare of the neighborhood at greater risk every time a similar request is granted.

Public Comments:

- Frank Wawrzaszek –Questioned the lot coverage calculation and asked if the large lakeside deck counted in the calculation. Mr. Wawrzaszek also commented on the conditions set on Mr. Ford's previous variance request and the court judgement ruling concerning the recreation lot. Mr. Wawrzaszek believes that Mr. Ford has not complied with the court judgment because the recreation lot has a ridge or unevenness along the property line with the adjacent recreation lot that creates a problem for the recreational use of the lot and also creates puddling of storm runoff since the ridge acts as a levy.

Additional Board Questions/Comments:

- Kelly referred the Board to Section 24.02.D of the Zoning Ordinance that prohibits filling a parcel of land to an elevation above the established grade of adjacent developed land and stated she believed the change in elevation made by Mr. Ford to the recreation lot would constitute a violation under the provisions of 24.02.D.
- Cormier questioned whether or not Mr. Ford had installed the dry well for storm water as required by his previous variance request. Mr. Ford replied yes and that he had pictures of the installation. Gajewski stated since the dry well in question was located in the area of the proposed construction and would have to be relocated if the requested variances were approved, the question was moot.

DeNette Bolyard, ZBA recording secretary, stated that Mr. Ford's variance request file does not include a copy of a site plan with the required signature from the Multi-Lakes Sewer Authority.

The following preamble and resolution was offered by Member Gajewski and supported by Member Cormier:

**Whereas**, on July 18, 2005 Gary Ford filed a Notice of Appeal (05-ZBA-614) requesting variances from specific site development requirements of the Dexter Township Zoning Ordinance to permit construction of a 26' x 22' two story addition to an existing 2-story single family home on property located at 7511 Noah's Landing, Parcel IDs 04-18-160-020 and 04-18-160-021 and;

**Whereas**, at a duly noticed public hearing on August 9, 2005, the Zoning Board of Appeals (ZBA) motioned the applicant's request for variance be tabled to allow the applicant time to:

1. Remove an existing shed that the ZBA had previously ordered removed as a condition of the approval of variances per ZBA file number 03-ZBA-558.
2. Obtain a certificate of final zoning compliance for the construction permitted pursuant to ZBA file 03-ZBA-558.
3. Provide for the township attorney's review a copy of documentation as to deed restrictions for parcel 04-18-160-020, and;

**Whereas**, at a duly noticed public hearing on September 13, 2005, the ZBA motioned the applicant's request for variance be tabled until the October 11, 2005 or November 8, 2005 regular ZBA meeting, and;

**Whereas**, at a duly noticed public hearing on December 13, 2005, the ZBA motioned the applicant's request for variance be tabled until the January 10, 2006 meeting to allow the applicant time to submit a copy of a deed for his property to the township office, and;

**Whereas**, at a duly noticed public hearing on January 10, 2006, the ZBA motioned the applicant's request for variance be tabled until the February 14, 2006 meeting to allow the applicant time to submit a revised plan with a lot coverage of less than 25%, exclusive of the area of parcel 04-18-160-020, and;

**Whereas**, the applicant submitted revised plans that have been reviewed by the ZBA, and;

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

**Whereas**, in compliance with section 4.05.C.1.a, conformance to the strict letter of the Ordinance as applied to the single family home use of the property will create a non-economic practical difficulty due to the fact that the standards of the Ordinance are being applied to an existing condition, and;

**Whereas**, in compliance with section 4.05.C.1.b, the steep topography and shallow lot represent unique physical conditions that do not generally apply to other property in the Lakes Residential zoning district that will not be recurrent in nature, and;

**Whereas**, in compliance with section 4.05.C.1.c, the physical conditions do not result from any action of the applicant, and;

**Whereas**, in compliance with section 4.05.C.1.d, the requested variances will apply only to property under the control of the applicant, and;

**Whereas**, in compliance with section 4.05.C.1.e, the variances will be in harmony with the general purpose and intent of the Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district because the proposed two-story addition shall not encroach upon parcel 04-18-100-020, and;

**Whereas**, in compliance with section 4.05.C.1.f, strict compliance with the setbacks would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome, and;

**Whereas**, in compliance with section 4.05.C.1.g, the variances requested are the minimum amount necessary to overcome the inequality inherent in the applicant's particular property, and;

**Whereas**, in compliance with section 4.05.C.1.h, the requested variances permit only a single family home, which is a principally permitted use in the lakes residential zoning district.

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

1. From Section 18.23.A, a front yard setback of 25 feet from Noah's Landing to the new construction.
2. From Section 18.23.B, a water side yard setback of 48 feet from North Lake to new construction.
3. From Section 19.04, to permit enlargement of a non-conforming structure.

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

1. The submission to the Zoning Administrator of all required Plot Plan data per Sections 6.03.A.1.a thru 6.03.A.1.k of the Zoning Ordinance prior to issuance of a zoning permit.
2. Conformance with all applicable provisions of Article 18, General Provisions and Article 24, Environmental Protection of the Dexter Township Zoning Ordinance prior to the issuance of a final certificate of zoning compliance.
3. Pursuant to the Dexter Township Fee Schedule, payment of engineering consulting and/or legal fees as required by the ZBA for the purpose of stormwater management inspection.
4. Stormwater management practices shall handle a 1" (one inch) rain event. For the entire structure, a "total" of 113 cubic feet of water storage shall be provided by Cultec plastic stormwater chambers or a combination of other approved (BMP's) best management practices.
5. Access to parcel 04-18-100-020 (Parcel II) shall not be obstructed during construction activity.
6. Submission to the township a signed Multi-Lakes Sewer approval.
7. Per Section 24.D.3, parcel 04-18-100-020 shall have a uniform taper from north to south that shall blend with the natural terrain and eliminate the berm between parcel 04-18-100-020 and parcel 04-18-100-019.

Roll Call Vote:

Wagner – YES, Cormier – YES, Kelly - NO, Gajewski – YES, Burch – YES

**Chairman Burch declared the resolution adopted.**

Concerns and or comments from the Board, Zoning Administrator, Recording Secretary:

Kelly stated that the Zoning Board of Appeals should work to develop and formalize their Rules and Procedures as the Zoning Ordinance requires adoption of Rules and Procedures and they haven't been updated for a long time. Motion by Kelly, support by Wagner to appoint ZBA members Burch and Kelly and ZBA recording secretary, DeNette Bolyard, to an ad hoc committee to develop updated ZBA rules and procedures. **Motion Carried.**

Discussion was held regarding changing the format of the agenda. Would like to see a more formal guideline.

Meeting Minutes

Motion by Kelly support by Wagner to approve the December 13, 2005 meeting minutes as amended. **Motion carried.**

Motion by Cormier, support by Gajewski to approve the January 10, 2006 meeting minutes as amended. **Motion carried.**

Motion by Kelly, support by Gajewski to adjourn the meeting at 9:35 p.m. **Motion carried.**

Respectfully submitted,

DeNette Bolyard,  
Recording Secretary

Pat Kelly,  
Secretary