



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday, May 10, 2005 7:30 PM

Members present: Steve Burch, Chair, Pat Kelly, Secretary, Jim Cormier, William Gajewski, Bill Smith

Members absent: None

Also present: Steve Piatt, Zoning Administrator

The meeting was called to order by Chairman Burch at 7:34 p.m.. Member Kelly led the Pledge of Allegiance to the Flag.

Chairman Burch announced that, per his discretion, the agenda would be modified to move consideration of the Huron Creek Party Store request (Item #5) to the first item on the agenda.

Chairman Burch stated that application information required to consider the Huron Creek Party Store request had not been submitted until today (May 10, 2005) and, therefore, the request could not be considered since members of the ZBA did not have adequate time to review.

Motion by Gajewski, supported by Cormier to table consideration of the Huron Creek Party Store until the June 14, 2005 ZBA meeting. **Motion Carried.**

Agenda Item: **2**
 Appeal Number: **05-ZBA-605**
 Applicant Name(s): **Howard Cooper and Karen Wood**
 Property Address: **13537 Orchard Court**
 Property Tax ID (s): **04-18-470-005**

Variances Requested per submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
18.23.A	--	49'	150' minimum	Front (South) setback from N. Territorial to pool fencing
18.23.A	--	106'	150' minimum	Front (South) setback from N. Territorial to proposed pool
18.23.A	--	15'8"	50' minimum	Front (East) setback from Noah's Landing to pool fencing
18.18.F.2	--	5'	3' maximum	Pool fencing height within a front yard setback.
18.23.A	91'	--	150' minimum	Recognize front (South) setback from N. Territorial to existing home.
12.02.E.1	1.11 acre	--	2 acres minimum	Recognize smaller than required lot area.
Purpose: Allow construction of a 28' x 40' T-shaped in-ground swimming pool and a surrounding 5' high fencing as required per building code.				

Chairman Burch read the list of persons notified into the record.

Mr. Cooper explained his project and why he was seeking variances.

Burch asked why the pool was included in the lot coverage calculation but the requested decking was not. Zoning Administrator (ZA) Piatt explained that, per 18.03.A, pools are required to be counted, but decks are not.

Burch asked the applicant what his proposed fence would look like. Mr. Cooper stated that he intended that the fencing facing both North Territorial and Noah's Landing would be solid wood and the remaining fence would be of a more open design.

Gajewski commented that the applicant had done an excellent job of staking his proposal. He went on to question the placement of the stakes per the drawing provided to the ZBA. Mr. Cooper stated that he had copies of a revised drawing of his proposed fencing. Chairman Burch authorized Mr. Cooper to distribute the new drawings to ZBA members.

Mr. Cooper explained that his revised fencing proposal less non-conforming than the original since the fencing was much closer to the proposed pool. Much discussion ensued regarding the new drawing. ZA Piatt calculated the revised nonconformities and stated that the new fencing proposal would require the following variances:

1. 91' front setback from North Territorial to the fencing (was 49')
2. 48' front setback from Noah's Landing to the fencing (was 15' 8")

Kelly asked the applicant how he intended to fill and empty his pool with water due to the potential adverse impacts to the environment by discharging chlorinated water. Mr. Dennis Scherdt (the applicant's representative from Ann Arbor Pool Builders, Inc. replied that there are chemicals to treat the pool water with prior to discharge that make it safe for the environment or that many people opted to have water for filling and emptying done by a tanker truck. He went on to state that, under ordinary circumstances, only a small amount of water is discharged from pools for the winter months and then the pools are simply filled by hose from the homeowner's well in the spring.

Chairman Burch opened Public Comment:

Elton Adkins, 13505 Orchard Court, next-door neighbor to the south, expressed his support of the project.

Member Kelly explained that she had received an email from Mr. Adkins this afternoon that also expressed support for the project and she passed out copies to the ZBA members.

Mr. Cooper offered that he had petitions declaring support for his project that had been signed by all the members in his subdivision. Chairman Burch accepted a copy of the signed petitions for the record.

Chairman Burch declared a short recess at 8:03 p.m. so that members of the ZBA could work on drafting resolutions.

Chairman Burch called the meeting back to order at 8:15 p.m.

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

Whereas, on April 12, 2005, Howard Cooper and Karen Wood filed a Notice of Appeal requesting a variance from specific site development requirements of the Dexter Township Zoning Ordinance to permit the construction of a 28' x 40' T-shaped in ground swimming pool and a surrounding 5' high fence as required per building code on property located at 13537 Orchard Court, 04-18-470-005 and,

Whereas, a public hearing before the Dexter Township Zoning Board of Appeals held on May 10, 2005, was attended by the applicant, and members of the public and application materials were reviewed and public comments, both oral and written were entered into the record 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 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, irregular shaped lot and three (3) front yards represent unique physical conditions that do not generally apply to other property in the rural residential 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 and,

Whereas, in compliance with section 4.05.C.1.f, strict compliance with required setbacks, would unreasonably prevent the owner from using the property for a permitted purpose, and,

Whereas, in compliance with section 4.05.C.1.g, the variance requested is 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 use, which is a principally permitted use in the Rural Residential Zoning District,

Be it therefore resolved that the following variances are approved:

1. Section 18.23.A to allow the following
 - a. 91' front yard setback from North Territorial to the required pool fencing.
 - b. 106' front yard setback from North Territorial to the proposed swimming pool.
 - c. 48' front yard setback from Noah's Landing to the required pool fencing.
2. Section 18.18.F.2 to allow a 5' high fence within a required front yard area.
3. Section 18.03.E to allow placement of a swimming pool in a required yard area.

Be it also resolved that the following existing non-conformities are recognized:

1. Section 18.23.A – 91' front yard setback from Orchard Court to the existing home.
2. Section 12.01.E.1 – 1.11 acre lot

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

1. 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. Conformance with the provisions of Section 18.18.F.2 which require that a fence in excess of 3 feet in height and placed within a front yard shall have at least 50% of its surface area open when viewed from the perpendicular.

Discussion:

Member Kelly asked the applicant if he understood that the resolution offered did not provide for a "closed type" fence and that it would need to be 50% open as required by the Ordinance. Mr. Cooper indicated that he did understand.

Roll Call Vote:

Cormier – YES, Smith – YES, Gajewski – YES, Kelly - YES, Burch – YES

Chairman Burch declared the resolution adopted.

Agenda Item: 2
 Appeal Number: 05-ZBA-606
 Applicant Name(s): James and Denise Kotsones
 Property Address: 9495 Hidden Lake Circle
 Property Tax ID (s): 04-25-332-001

Variance Requested per submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
18.23.A	--	52.5'	100' minimum	Front (North) setback from Fleming Rd to proposed garage
12.01.E.1	1.22 acre	--	2 acres minimum	Recognize smaller than required lot area.
Purpose: Allow construction of a 28' x 28' rec barn (garage).				

Chairman Burch read the list of persons notified into the record.

Mr. Kotsones explained his project and why he was seeking a variance.

Cormier asked if the paved portion of the driveway would be extended to the new structure. Mr. Kotsones stated he wasn't sure at this time but that landscaping around the new structure had been required as a condition of approval from his Association. Cormier asked the applicant about downsizing the structure to lower the nonconformity. Mrs. Kotsones replied that they really needed the additional storage and would be reluctant to downsize.

Kelly stated she felt that she could not justify the requirement of a practical difficulty because the structure could easily be placed elsewhere on the lot without the need for a variance. Kelly also stated that this type of structure seemed out of character for the area since no other detached buildings were observed in the Hidden Lake subdivision. Kelly also stated that approval of the structure would have a negative impact on the viewscape from Fleming Road.

Smith stated that he agreed with Kelly's comments.

Gajewski stated that, even though he agreed the placement chosen seemed the most practical, the applicant did have other placement choices.

Chairman Burch opened Public Comment:

Karen Bentley, 9849 Hidden Lake Circle, next-door neighbor to the south, expressed her support for the project and the proposed placement. She stated that she would not want to look at the structure if it was placed on the south side of the lot.

Cormier asked the applicant again about downsizing the request. Chairman Burch offered to take a poll to see if members would favorably consider a smaller structure in the proposed location. Members Smith, Kelly and Gajewski made stated that the relative size of the structure would not have an influence on their decision.

Chairman Burch declared a short recess at 8:50 p.m. so that members of the ZBA could work on drafting resolutions.

Chairman Burch called the meeting back to order at 9:05 p.m.

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

Whereas, on April 13, 2005, James and Denise Kotsones filed a Notice of Appeal requesting a variance from specific site development requirements of the Dexter Township Zoning Ordinance to permit the construction of a 28' x 28' garage on property located at 9495 Hidden Lake Circle, property I.D.: 04-25-332-001 and,

Whereas, a public hearing before the Dexter Township Zoning Board of Appeals held on May 10, 2005, was attended by 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, the Zoning Board of Appeals shall not grant relief from site development requirements unless supporting evidence is demonstrated and recorded that all required findings are met and,

Whereas, per section 4.05.C.1.f, strict compliance with setbacks does not create an excessive burden or unreasonably prevent the owner from using the property for a permitted purpose since the proposed garage can be placed elsewhere on the lot and remain in conformance;

Be it therefore resolved that the requested setback variance from Fleming Road is denied.

Roll Call Vote:

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

Chairman Burch declared the resolution adopted.

Agenda Item: **4**
 Appeal Number: **05-ZBA-607**
 Applicant Name(s): **Joseph C. Pitrone**
 Property Address: **9972 Winston Drive**
 Property Tax ID (s): **04-01-230-004 and 04-01-231-012**

Variances Requested per submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
18.23.A	--	21’8”	50’ minimum	Front (North) setback from Winston Dr. to front porch
18.23.B	--	32’	50’ minimum	Waterside (South) setback from Portage Lake to new home
12.02.E.1	.30 acre	--	1 acre minimum	Recognize smaller than required lot area.
12.02.E.2	105’	--	150’ minimum	Recognize narrower than required lot width.
18.23.A	20’	--	50’ minimum	Recognize front (South) setback from Winston Dr. to existing garage.
12.02.E.3.b	3’	--	5’ minimum	Recognize two side (East and West) setbacks from existing garage.
12.02.E.3.c	19’	--	30’ minimum	Recognize rear (North) setback from existing gargae.
Purpose: Allow construction of a two story single family home on a crawl space.				

Chair Burch elected not to read the names of persons noticed since the list was extensive. He stated that the list was available for public review.

Mr. Pitrone explained his proposal and why he was requesting a variance. He also introduced Mr. Charles Lowler, his builder.

Kelly stated that the application provided to the ZBA did not include a storm water run-off plan or a final grading plan and she would like to see this request tabled until such time that this information could be provided and evaluated by the Township Engineer. Mr. Lowler replied that he had a storm water runoff plan to submit. Kelly stated that the plan really needed to be turned in prior to the meeting for proper evaluation. Mr. Pitrone questioned the need for a storm water plan by the ZBA as he felt this was something that should be evaluated by the Building or Engineering Departments and had nothing to do with the setback variances requested. Kelly explained that it was necessary for the ZBA to evaluate these plans since the final grading of a property as well as the impervious area are components in the calculation to determine storm water runoff compliance.

Burch and Gajewski both concurred that the stormwater runoff and final grading plans were essential to review of the request.

Kelly suggested that, prior to tabling the request, it might be helpful to the applicant for ZBA members to outline any other major concerns.

Gajewski stated that the building envelope for the parcel is extremely small and that approval of some variance would be required for reasonable use of the property. However, he questioned whether the size of the home as proposed would meet the standards of review concerning the minimum variance for reasonable use.

Smith stated that he had no problems with the setbacks as proposed since he thought the proposed home was not significantly different from other homes in the neighborhood.

Cormier stated that the size and footprint of the home was a concern to him.

Kelly explained that the Zoning Ordinance provides protection for owners of similar lots by granting the right to rebuild non-conforming homes on non-conforming lots. However, the protection extends only to structures that are the same size and footprint. Kelly stated that she had calculated from past assessing records that the proposed home was well over 50% larger than the one that burned and was torn down. Therefore, she agreed with Gajewski that the project as proposed would have difficulty meeting the standard of minimum variance for reasonable use.

Motion by Member Smith, support by Member Cormier to table Mr. Pitrone’s request until the June 14, 2005 ZBA meeting to allow the applicant to submit stormwater runoff and final grading plans for review by the ZBA and the Township Engineer.

Discussion:

Kelly cautioned the applicant that the cut-off date for submission of information for the June 14, 2005 meeting was only a short time away.

ZA Piatt requested the applicant to call the township for confirmation of the cut-off date.

On a voice vote, Chairman Burch declared the motion carried.

Agenda Item: **5**
 Appeal Number: **05-ZBA-608**
 Applicant Name(s): **Kevin Lucas and Jennifer Yeakey**
 Property Address: **6100 Stofer Road**
 Property Tax ID (s): **04-19-300-018**

Variations Requested per submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
18.23.A	--	86’	150’ minimum	Front (West) setback from Stofer Road to proposed fencing
18.23.A	--	0’	50’ minimum	Front (North) setback from Stofer Court to proposed fencing.
18.18.F.2	--	5’	3’ maximum	Allow proposed fencing height within a front yard setback.
18.23.A	60’	--	150’ minimum	Recognize front (West) setback from Stofer Road to existing home.
12.01.E.1	.83 acre	--	2 acres minimum	Recognize smaller than required lot area.
Purpose: Allow for the placement of a 5’ high chain link type fence in the front setback area.				

Chairman Burch read the list of persons notified into the record.

Mr. Lucas and Ms. Yeakey explained the project and why a variance was being sought.

Kelly distributed a letter received at the township from Mr. and Mrs. John Gillespie, 14413 Stofer Court.

Chairman Burch read the letter, which outlined the Gillespie’s objections to the project, into the record.

Ms. Yeakey stated that they had just recently purchased the property and that the ability to place a fence was important enough to them to be a condition of the sales agreement. Ms. Yeakey stated that she had been assured that fences were allowed on the property.

Smith asked how large an area could be fenced in while maintaining required setbacks. The applicant responded that the allowable area was too small to accommodate the families' large dogs and that an important safety feature was that the fence be attached to the back of the house.

Kelly suggested that a fence could be placed in such a manner as to enclose the entire back yard area directly behind the home without the need for a variance from Stofer Court. In addition, the portion of the fence that would still require a variance from Stofer Road would not be very noticeable from the road and would not detract from the open feel of the lot and rural character of the general area.

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

Whereas, on April 18, 2005, Kevin Lucas and Jennifer Yeakey filed a Notice of Appeal requesting a variance from specific site development requirements of the Dexter Township Zoning Ordinance to permit the erection of 5' high fencing to enclose their entire rear yard area on property located at 6100 Stofer Road, 04-19-300-018 and,

Whereas, a public hearing before the Dexter Township Zoning Board of Appeals held on May 10, 2005, was attended by the applicant, and members of the public and application materials were reviewed and public comments, both oral and written were entered into the record 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 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, two front yards and the placement of the existing home represent physical conditions that do not generally apply to other property in the rural residential 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 and,

Whereas, in compliance with section 4.05.C.1.f, strict compliance with required setbacks would unreasonably prevent the owner from using the property for a permitted purpose, and,

Whereas, in compliance with section 4.05.C.1.g, the variance requested is 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 use, which is a principally permitted use in the Rural Residential Zoning District,

Be it therefore resolved that the following variances are approved:

1. Section 18.23.A to allow the following
 - a. 97' front yard setback from Stofer Road to the proposed fencing. The fence to extend from the southeast corner of the existing home in a southerly direction to the South property line.
 - b. 84' front yard setback from Stofer Road to the proposed fencing. The fence to extend from the northeast corner of the existing attached garage in a northerly

direction to a location that does not encroach into the required 50' front setback area for Stofer Court.

2. Section 18.18.F.2 to allow a 5' high fence within a required front yard area.

Be it also resolved that the following existing non-conformities are recognized:

3. Section 18.23.A – 60' front yard setback from Stofer Road to the existing home.
4. Section 12.01.E.1 – .83 acre lot

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

4. 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.
5. 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.
6. Conformance with the provisions of Section 18.18.F.2 which require that a fence in excess of 3 feet in height and placed within a front yard shall have at least 50% of its surface area open when viewed from the perpendicular.

Roll Call Vote:

Cormier – YES, Smith – YES, Gajewski – YES, Kelly - YES, Burch – YES

Chairman Burch declared the resolution adopted.

Motion by Kelly, supported by Gajewski to table the appeals from applicants Lane, Prose and Rock until the June 14, 2005 regular ZBA meeting.

Kelly asked ZA Piatt to contact Mr. Rock to see if he wished to withdraw his application.

On a voice vote, Chairman Burch declared the motion carried.

Members of the Board discussed the possibility of moving the starting time for ZBA meetings to 7:00 p.m.. All the members indicated a willingness to start the meetings earlier.

Motion by Kelly, supported by Smith to change the ZBA meeting starting time from 7:30 p.m. to 7:00 p.m.

On a voice vote, Chairman Burch declared the motion carried.

Motion by Smith, supported by Cormier to authorize Member Kelly to request the time change be approved by the Township Board.

On a voice vote, Chairman Burch declared the motion carried.

Motion by Kelly, supported by Smith to adjourn the meeting at 10:48 p.m.

Chairman Burch declared the meeting adjourned.

Respectfully submitted,

DeNette Bolyard,
Recording Secretary

Pat Kelly,
Secretary