



Dexter Township

Zoning Board of Appeals

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Steve Burch,
Chair
James Cormier,
Vice Chair
Pat Kelly,
Secretary
Hank Byma
Bill Gajewski
Dave Millar, Alt.
Wendell Wagner, Alt.
DeNette Bolyard,
Recording Secretary

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday, June 13, 2006 7:00 PM

Members present: Steve Burch, Chair, Pat Kelly, Secretary, Hank Byma, Jim Cormier, William Gajewski

Members absent: None

Also present: Patrick Sloan, Zoning and Planning Director, 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:

Chair Burch noted the agenda items. Mr. Sloan informed the ZBA that Mr. Van Goor had requested that his appeal be tabled until the July meeting. Motion by Byma, support by Gajewski to table agenda item #7, Van Goor (06-ZBA-633), until the July 11, 2006 meeting. **Motion Carried.**

Mr. Sloan also informed the ZBA that Mr Curran had also requested to be tabled until the July meeting. Motion by Byma, support by Gajewski to table agenda item # 2, Curran (06-ZBA-629), until the July 11, 2006 meeting. **Motion Carried.**

Chair Burch declared that the ZBA would proceed with the agenda as amended.

IV. Public Comment- Non Agenda Items: There was no public comment on non-agenda items.

V. Action Items:

Agenda Item: **1**
Appeal Number: **06-ZBA-626**
Applicant Name(s): **Dexter Township Board, Pat A. Kelly**
Property Address: **13505 and 13521 Edgewater Drive, Gregory, Michigan 48137**
Property Tax ID (s): **04-07-108-001 and 04-07-108-017**

Purpose: To appeal the decision of Steve Piatt, Zoning Administrator, as expressed in a 12-22-05 letter to Katrina Stewart, owner of the property in question. The letter stated that Ms. Stewart did not need to seek permission of the ZBA prior to selling property located at 13505 Edgewater Drive.

Chair Burch summarized the history concerning the current administrative appeal before the ZBA, including a description of previous ZBA action concerning the Stewart properties. Chair Burch then read Section 19.02 of the Zoning Ordinance and stated that the only matter before the ZBA is the question of the ZBA's agreement or disagreement with Mr. Piatt's interpretation of Section 19.02.

Member Kelly noted her role as the applicant in this case, recused herself from the proceedings and noted she would answer any questions from the ZBA.

The property owner, Ms. Katrina Stewart, noted that the address for one of the properties listed in the application is incorrect. In addition, she noted that the current location of the grinder pump on the most westerly of her three lots prevented a house from being built closer to the east side property line. She also stated she believed the new potential owner should have to address these issues, not her.

Jan Sevde, Ms. Stewart's realtor, commented on the need for Ms. Stewart to move quickly to get her property on the market due to the recent downturn in the real estate market and the seasonal nature of marketing lake property.

Chair Burch asked Ms. Stewart if her 3 properties were ever combined under one property ID. He also asked if Ms. Stewart claimed a Principal Residence Exemption on all the properties. Ms. Stewart replied no to both questions.

In response to Ms. Stewart's questioning of the timeliness of the appeal, Ms. Kelly explained that action on the administration appeal had been taken as quickly as possible from the time the Township Board became aware of Mr. Piatt's ruling.

Bill Harper, 13340 Rainbow Drive, stated he did not believe that the intent of Section 19.02 was to combine lots with existing homes. He also questioned the timeliness of the appeal.

Motion by Byma, support by Gajewski to recuse the December 22, 2005 letter from Mr. Piatt to Ms. Stewart and to encourage Ms. Stewart to file an appeal for a variance to Section 19.02 as soon as possible. **Motion Carried.**

Agenda Item: **3**
 Appeal Number: **05-ZBA-612**
 Applicant Name(s): **Cindy White**
 Property Address: **8401 Thurston**
 Property Tax ID (s): **04-03-300-007**

Tabled to July, 2006 – No action required

Agenda Item: **4**
 Appeal Number: **06 ZBA 630**
 Applicant Name(s): **Harold and Dori Gross**
 Property Address: **5050 Westwind**
 Property Tax ID (s): **04-23-300-012**

Variations Requested per submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
18.18.C				To allow an accessory building to be constructed in a front yard.
18.18.D		85.7%	25%	To allow an accessory building to exceed 25% of the ground floor area of the principal building.
Purpose: To allow for the construction of a 24' x32' garage.				

Chair Burch read the list of persons noticed into the record.

Mr. Sloan described the variations requested.

The applicants, described the difficulties they experienced in trying to place a garage on the property.

Chair Burch asked the Gross's if they intended to leave the many trees on the property intact. They replied yes.

Member Byma described his observation of the inaccessibility of the rear yard. He also noted a slight discrepancy between two supplied sketches in the placement of the garage. He also asked Mr. Sloan how large would the primary residence need to be to allow the size accessory building requested. Lastly, he asked if the Gross's had contacted their neighbors about the project. The Gross's said they had spoken with the most of the neighbors and knew of no objections to their plans.

Member Kelly asked if the applicants would consider using construction materials that more closely resembled the type of siding, shingles, etc. that might be used on a primary residence. The Gross's replied they would consider using such materials.

Chair Burch inquired as to whether the height of the structure would have an impact on the neighbors. The Gross's replied they did not think it would due to the slope and grade of the property in question.

Member Gajewski stated that only one neighbor had the potential of being impacted by the project and that he liked the possible use of residential type construction materials. He also stated that if there was another possible location on the property to site the garage, the Gross's would have a self-created problem, but he did not think that was the case.

Member Cormier stated he visited the site and he believed it might be possible to place the structure in the rear yard, even if it meant cutting down trees.

Member Gajewski stated that the trees serve an important function in helping to regulate storm water runoff.

Motion by Byma, support by Gajewski to approve the request with the following conditions:

1. The garage is built and landscaping is done to screen the structure from neighboring properties.
2. The exterior colors of the garage shall coordinate with the primary residence and construction materials shall be used that closely match the primary residence and neighborhood.
3. A swale shall be graded to collect stormwater runoff from the roof of the new garage.

Member Kelly offered that the following findings, per Section 4.05.C.1 should be entered into the record:

1. Subsection “a” has been met since the requested variances do not seek a use that is not allowed in the Rural Residential District.
2. Subsection “b” has been met since the relative narrowness of the lot, the placement of the existing home and septic system, and the sloping, wooded rear yard represent practical difficulties that do not generally apply to other properties in the Rural Residential District and shall not be recurrent in nature.
3. Subsection “c” has been met since the practical difficulties do not result from any action of the applicant.
4. Subsection “d” has been met since granting the variances requested will relate only to the property of the applicant.
5. Subsection “e” has been met since the applicant has agreed to mitigate the effect of the size and placement of the accessory building by using construction materials, trim and landscaping around the new detached garage that more closely fit with the existing residential neighborhood, thereby preventing any adverse effect on surrounding properties, property values, and the use and enjoyment of the property in the neighborhood. Additionally, the new construction will be in harmony with the general intent of the Zoning Ordinance since a large amount of mature trees, an important natural resource, will be saved.
6. Subsection “f” has been met since strict compliance with Sections 18.18.C and 18.18.D would unreasonably prevent the owner from constructing an accessory building in a usable location on the property.
7. Subsection “g” has been met since the neighborhood in which the property is located is an older, metes and bounds development and other large outbuildings are present in the neighborhood. Therefore, the size of the proposed building is in keeping with the surrounding properties and does not confer special privileges to the applicant.
8. Subsection “h” has been met since the proposed accessory building is a permitted principal use within the Rural Residential District.

Members Byma and Gajewski stated they agreed with adding the findings read by Member Kelly.

Chair Burch called the question as follows:

Cormier – No Byma - Yes Gajewski– Yes Kelly – Yes Burch – Yes

Chair Burch declared the motion carried as amended.

Agenda Item: **5**
 Appeal Number: **06 ZBA 631**
 Applicant Name(s): **Daniel and Janet Egeler**
 Property Address: **12023 Island Lake Road**
 Property Tax ID (s): **04-28-400-008**

Variations Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
18.18.C	--	Yes	No	To allow an accessory building (50' x 100' pole barn) to be

				partially constructed in a front yard.
18.18.D	--	About 7,257 square feet	2,000 square feet	To allow an accessory building to exceed the maximum allowable area of 2,000 square feet for parcels more than 10 acres.

Chair Burch read the person noticed into the record.

Mr. Sloan described the variances requested.

The applicants, added to the following information to that already included in his application: He has planted 500 seedling trees for future screening from the road and neighboring properties, he wants to keep the rear yard free of structures so that he can continue to have it farmed, he has placed the building as to minimize the effect on the view of neighboring properties across Island Lake Road, and he notes that, due to his AG zoning, the size of the proposed structure would not be a problem if the barn had an agricultural use.

Chair Burch questioned the final aesthetic appearance of the proposed building. Mr. Egeler explained the building would have an overhang. Burch asked the applicant if he could construct the building more like a traditional agricultural barn. Mr. Egeler explained that he had researched the idea and found it to be cost prohibitive, but offered that the exterior color of his structure would be earthtones.

Member Gajewski stated that the applicant’s practical difficulty was a self-created problem since the barn could be placed elsewhere on the property. Mr. Egeler described that, on the rear portions of his property, the water table was only approximately three feet below the surface. Mr. Gajewski asked what kind of soils were on the property and Mr. Egeler replied clay.

Member Kelly suggested that positioning the building to retain the ability to farm the rear portion was positive and in keeping with the agricultural uses and rural character of other properties on the south side of Island Lake Road.

Member Gajewski commented that if the building was constructed as a standard steel pole barn, he would not consider it in keeping with rural character.

Member Cormier stated he liked the proposed use of the barn to store antique fire engines but questioned whether or not it could be placed elsewhere on the property. He also stated that he did not observe any stakes noting the location of the proposed pool. Mr. Egeler stated that he couldn’t stake the pool due to the construction activity around the new home.

Member Kelly asked if Mr. Sloan or anyone else had more specific information as to the status of the property under the Right to Farm Act since it was zoned AG and portions of it were still being farmed.

Member Byma questioned the possibility of future land splits on the property. He also asked if the barn could be moved back about 50 feet to eliminate the need for a variance as to the front yard. Mr. Egeler said he could move it back, but that it would have an impact on the amount of property that could continue to be farmed. Member Byma stated that the construction materials used was very important.

Public Comment:

Lauren Kingsley, 12075 Island Lake Road, had two concerns. First, she believes the existing deed on the Egeler property has restrictions as to construction materials and other items that might apply and she wonders if these restrictions are still in effect. Secondly, she questioned the location of a County drain that appeared from her research to just “end” at the southernmost end of the Egeler property. She stated it was her belief that the drain continued onto the Egeler property and she wondered what effect the project might have on the drain. In addition, she has a concern as to the size of the building and would like it to be smaller and not an “eyesore”. She also questioned the size of the pool bldg.

James Augustine, 11911 Island Lake Road, stated he wanted the building to look like a traditional agricultural barn to “blend”, and that a steel building would be an “eyesore”.

Members of the ZBA discussed the deed restrictions.

Motion by Kelly, support by Byma to table the matter to allow the township attorney to evaluate and give an opinion on the deed restrictions and the issue of the County Drain. **Motion Carried.**

Appeal Number: **06 ZBA 632**
 Applicant Name(s): **Sally DeRoo**
 Property Address: **8554 Portage Lake Blvd**
 Property Tax ID (s): **04-01-108-045**

Variations Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
12.02.E.1	.13 acre	.13 acre	1 acre	Recognize lot is less than 1 acre.
12.02.E.2	55 feet	55 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	29'	29'	50'	To allow the proposed structure the same front yard setback distance as the existing structure.
12.02.E.3.b	2'8"	2'8"	5'	To allow the proposed structure the same side yard setback distance as the existing structure, but with an increased length of 14'.
12.02.E.3.c	34'10"	19'10"	30'	To allow the proposed attached garage to be located within the required rear yard setback.
18.22.A	879 sq. ft.	931 sq. ft.	1,040 sq. ft.	To allow the proposed single family dwelling to have less area than the minimum required.

Chair Burch stated the list of persons notified was too long to read, but was available for review by members of the public in the township offices.

Ms. DeRoo stated that she knows of no neighbors that have made any comments.

Mr. Sloan described the project.

Ms. DeRoo stated she believed her plan greatly improved the appearance of the property and that she would actually like to add a two-car, rather than a one-car garage if the ZBA would consider it.

Member Cormier asked if the plan was to demolish the existing structure. Ms. DeRoo stated the existing walls would remain, but the roof and roof line would be different. He also asked the applicant if she intended to pave the driveway. She said not at this time but she may like to in the future. A concrete apron is planned for the garage.

Chair Burch stated his concern as to the extent of impervious surfaces.

Member Kelly stated that there was no plan for stormwater management supplied with the plans and she would prefer to table any action on the request until a plan is submitted.

Member Byrna is concerned that if the current outbuildings are torn down and a garage is built, the outbuildings will get rebuilt in the future, probably without permits.

Member Kelly is concerned about the extension of an already non-conforming side set back of 2'8".

Member Cormier stated he has no concerns with the design of the garage, but would condition the plan on no additional pavement in the future.

Member Gajewski agreed the driveway should not be paved, that he would recommend using 21AA natural.

Motion by Cormier, support by Byrna to approve the variations as requested with the following conditions:

1. All existing outbuildings to be demolished and removed.
2. The driveway shall not be paved and shall remain an pervious surface.
3. A stormwater management system shall be submitted that demonstrates compliance with best management practices to control a 1" rain event.

Member Byrna offered that the following findings, per Section 4.05.C.1 should be entered into the record:

1. Subsection "a" has been met since the requested variations do not seek a use that is not allowed in the Lakes Residential District
2. Subsection "b" has been met since the relative narrowness of the lot represents a practical difficulty that does not generally apply to other properties in the Lakes Residential District and shall not be recurrent in nature.

3. Subsection “c” has been met since the practical difficulties do not result from any action of the applicant.
4. Subsection “d” has been met since granting the variances requested will relate only to the property of the applicant.
5. Subsection “e” has been met since the applicant has agreed to mitigate the total stormwater generated from the current and proposed buildings and has agreed to remove the current outbuildings, thereby preventing any adverse effect on surrounding properties, property values, and the use and enjoyment of the property in the neighborhood. Additionally, the new construction will be in harmony with the general intent of the Zoning Ordinance since approval of the proposed project will not permit construction of structures of a size or scale that do not blend with the “cottage” aesthetic of the surrounding neighborhood.
6. Subsection “f” has been met since strict compliance with the zoning ordinance would unreasonably prevent the owner from constructing an accessory building in a usable location on the property.
7. Subsection “g” has been met since the neighborhood in which the property is located is an older, platted lake subdivision that is being converted to year-round type homes and the approval of the requested variances is in keeping with the surrounding properties and does not confer special privileges to the applicant.
8. Subsection “h” has been met since the proposed structure is a permitted principal use within the Lakes Residential District.

Member Cormier stated he agreed with adding the findings read by Member Byma.

Chair Burch called the question as follows:

Kelly – Yes Cormier - Yes Byma – Yes Gajewski – Yes Burch – Yes

Chair Burch declared the motion carried.

VI. Public Comment: None

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

Member Cormier expressed concern at the structure of ZBA resolutions and wonders why the form has changed.

Chair Burch mentioned that the ZBA still needed to take action on the proposed Rules and Procedures.

Mr. Sloan distributed a handout concerning the new coordinated zoning enabling legislation.

VIII. Approval of Meeting Minutes

1. Tuesday, April 6, 2006 - Motion by Kelly, supported by Gajewski to approve the minutes as submitted.
Motion Carried.
2. Tuesday, April 11, 2006 – Motion by Kelly, supported by Gajewski to approve the minutes amended as follows:
 - a. page 13 line 10 change the word the to a.
 - b. page 13 line 11 cross out Well and
 - c. page 13 line 15 change the word ocean to osier
 - d. page 35 line 13 change the word that to that’s
 - e. page 35 line 15 change the word is to it’s
 - f. page 35 2nd half of page line 9 add the word driveway before calculations

Motion Carried.

3. Tuesday, May 9, 2006 minutes – Motion by Gajewski, supported by Cormier to approve the minutes with the following corrections:
 - a. Page 23 line 11 of the transcript change any quality to inequality.

IX. Adjournment

Motion by Kelly, supported by Cormier to adjourn the meeting at 10:30 p.m. **Motion Carried.**

Respectfully submitted,

Pat Kelly, Secretary