



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, July 11, 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:** Member Byma led the Pledge of Allegiance to the Flag
- III. Approval of Agenda:** Chair Burch read aloud the agenda items as presented. A motion was made by Byma, supported by Gajewski to accept the agenda as read. Carried.
- 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-629
Property Tax ID: 04-01-182-006, -007, -008, -010
Applicant Name(s): Thomas Curran
Property Address: 9125 McGregor Road

Variations Requested Per Submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
12.02.E.1	.30 acres	.30 acres	1 acre	Recognize lot is less than 1 acre.
12.02.E.2	45 feet	45 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	1.62' (street); approx. 34' (water)	1.62' (1 st story, street); 21.62' (2 nd story, street). 34' (1 st story, water); 38' (2 nd story, water).	50'	To expand the front yard setback encroachment.
12.02.E.3.b	9' (north); 4' (south)	5' (north, 1 st story); 4' (south, 2 nd story).	7'	To allow for smaller side yard setbacks.

It was noted that this request was tabled from last month and therefore the Chair did not read aloud the persons notified.

Patrick Sloan, Director of Planning and Zoning, described the amended variance request and noted the new survey drawing.

Member Kelly noted that she could not support the requested side setbacks and would like additional information from the applicant. However, the applicant was not present.

Motion by Byma, supported by Gajewski to table the request to give the applicant time to appear. **Motion Carried.**

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

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	20'	5'	50'	From Thurston Drive to new garage overhang.
18.23.A	16'	10'	50'	From the undefined easement
12.02.E.3.C	14.3'			From existing home to property line on the west side.
12.02.E.1				Recognize. less than one acre
12.02.E.2				Recognize less than 150' wide.
Purpose: to construct a 24' x24' garage with attic storage.				

An email from the applicant was read aloud by Chair Burch. The email requested that the matter be tabled to allow more time to look for the best location for a new garage and to have a new drawing to make the variance needed as small as possible.

A motion was made by Byma, supported by Gajewski to table the variance request until new materials have been satisfactorily submitted to Patrick Sloan. An amendment was made to the motion to add that the time for submittal of materials would not exceed six months. This amendment was supported by Gajewski.

Kelly noted that the reason the request was previously tabled until no later than July 2006 was because it would then become a year old.

Patrick Sloan noted that, due to new noticing requirements of the Zoning Enabling Act, cutoff dates for submission of new material would be sooner than before.

Motion Carried.

Agenda Item: 3
Appeal Number: 06 ZBA 631
Property Tax ID: 04-28-400-008
Applicant Name(s): Daniel and Janet Egeler
Property Address: 12023 Island Lake Road

Variations Requested Per Submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
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 noted that this request was previously heard and tabled and, therefore, the persons notified were not read into the record. Burch also noted, in response to public comment at a previous meeting, that the ZBA cannot enforce neighborhood deed restrictions.

Patrick Sloan, Director of Planning and Zoning, described the variations being requested, the deed restrictions and the County drain issues.

Member Kelly stated that she spoke with Patrick Conlin, Township Attorney regarding the deed restrictions. Mr. Conlin stated that the deed restrictions were enforceable by the neighborhood, not the Township. He also offered several suggestions regarding the County drain. First, the applicant should obtain letter from Drain Commission

certifying that a County drain does not exist on the property. In addition, the ZBA should incorporate into their resolution that if any drain or drain tiles were damaged by the applicant during the construction of the new structure, that the applicant would be responsible for repairing them.

Applicant stated that he would agree to seek a certification from the Drain Commissioner's office and also would accept responsibility for the drains, if damaged. He also offered to move the pole barn back an additional 50' to the south and indicated that he had changed the pitch of the roof and overall height to make it look more like a barn. He was going to put cedar shingles on the gable ends. Mr. Egeler also submitted a new cross-section of the proposed building.

Member Byma questioned whether or not the barn had overhangs? Applicant stated yes, he planned to have 1' overhangs on the building.

Member Gajewski stated he would have guessed that the attorney would have ruled differently on the deed restrictions. Applicant Egeler stated that deed restrictions were a matter of contract between affected parties. Which they must enforce, not the ZBA.

Member Cormier questioned if the pool was still part of the variance request that the Board should be considering. All Board members agreed that the decision tonight would include the pool.

Member Byma questioned the exterior material that was going to be used on the barn. Applicant Egeler stated that it would still be mostly sheet metal, but the gable ends will be detailed to match the house of earth tone color.

Chair Burch stated that he noticed that the neighborhood had a lot of pole barns. Some that look like barns, and some metal.

Member Gajewski stated he felt that the variance should be approved.

Public Comment –

Lauren Kingsley – Island Lake Rd. – Stated she was ok with the setback and the exterior but feels the size of the structure is too large. Zoning Ordinance restricts size to 2000 square feet. Asked if there was a compelling reason for allowing such a large structure.

Marcia Ottoman – 12634 McKinley Heights – Talked about the right to farm act. Does not think that a 10 acre farm parcel would qualify.

Public Comment Closed –

Member Gajewski made a motion supported by Byma to grant the variance with the following conditions:

1. Setback to the north face of the new structure to be 250' from the right of way.
2. Gable ends to have detail (shingles) to match the house.
3. Roof to be a 8/12 pitch with a 1' overhang
4. Applicant to obtain letter from Drain Commission certifying that to the best of their knowledge there is not a County Drain on property.
5. Applicant to sign letter of responsibility to repair damage to drain or drain tile if it turns out there is a drain or drain tiles on the property.

Findings of fact in support of granting the requested variances are:

1. The property is zoned Agricultural
2. The variances requested will be in harmony with the general purpose and intent of the zoning ordinance as stated in Section 11.01 to "encourage and provide opportunities for agriculture and the retention of land areas in Dexter Township which are well suited for production of food and fiber, while also providing opportunities for comparatively low density rural residential lifestyles and development patterns which encourage the preservation of open spaces, including farmland, and other natural resources of the Township's rural character."
3. The area in the immediate vicinity of the subject property is characterized by farming operations and outbuildings, granting of the requested variances will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.

4. The size of the building is comparable to other like buildings in the neighborhood and area.

Roll Call Vote: Cormier – Yes Byma – Yes Gajewski – Yes Kelly – Yes Burch – Yes

Chair Burch declared the **Motion Carried**

Chair Burch declared a 5-minute recess.

Agenda Item 4
Appeal Number: 06-ZBA-633
Property Tax ID: 04-18-179-007
Applicant Name(s): Michael Van Goor (applicant), John Thomas (owner)
Property Address: 7363 Webb Shore Drive

Variances Requested Per Submitted ZBA Application:				
<u>Section</u>	<u>Current</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
12.02.E.1	.08 acres	.08 acres	1 acre	Recognize lot is less than 1 acre.
12.02.E.2	37.1 feet	37.1 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	40'7" (street); 16'5" (water)	19' 3" (street); 16'5" (water)	50'	To allow the proposed structure to encroach further into the front yard setback on the street side.
12.02.E.3.b	2" (north); 4'2" (south)	2" (north); 4'2" (south)	5'	To allow for the existing side yard setbacks.
12.02.E.4	32%	43%	25%	To allow for larger lot coverage that is still nonconforming.

Chair Burch noted that this request was previously heard and tabled and, therefore, the persons notified were not read into the record.

Patrick Sloan, Director of Planning and Zoning, described the variances being requested.

Chair Burch stated that he did not find a stormwater management plan with the application materials. Sloan said he discussed a stormwater plan with the applicant, but does not know why he did not submit it.

Michael VanGoor, Architect, representing the owner, John Thomas, stated that water from new structure would be retained under the parking area. Mr. VanGoor stated he did not assume that the stormwater from the existing structure needed changing but, if needed, would use dry wells when the new structure is in place.

Chair Burch questioned whether or not there is enough real estate to handle the stormwater run off properly.

Member Gajewski stated he felt that it is an extremely small lot, with high energy and erosion on the existing steep slopes. Questioned whether or not section 24.03 of the zoning ordinance could be met. Felt it would be pushing the envelope at 16' from the lake. Stated it is a self created problem since the house is too big for lot. Also stated that a lesser relaxation of the Ordinance would be more appropriate.

Member Cormier questioned why last months submission did not indicate a garage, but the latest plan does

Mr. VanGoor stated that the plan was changed due to the fact that Multi-Lakes sewer easement restrictions did not allow for a retaining wall.

Member Cormier questioned what kind of surface was planned for the driveway

Mr. VanGoor replied that the applicant would ideally be able to use concrete, but other materials would be considered, if necessary.

Member Cormier also stated that 43% lot coverage was huge based on approvals granted previously by the Board.

Member Kelly stated that since the new Zoning Ordinance was passed in May of 2003, the ZBA has approved only two lot coverage variances over 25%. One variance was for 25.2% and one was for 25.3%. Both involved the construction of small covered porches. The ZBA has never considered a variance on the scale requested by the applicant. Kelly also stated that no practical difficulty exists due to the fact that the current structures have provided

reasonable use of the property and Section 19.04 of the Zoning Ordinance provides for the continued reasonable use of the property by allowing the current structures to be rebuilt.

Public Comment –

Dave Pruess – Neighbor – stated he has a garage and feels John Thomas should also be allowed to have one.

Public Comment Closed

Member Byrna – Cannot support as submitted. Garage is probably not possible. If approved as submitted precedence will be set and this will affect lake quality and environment.

Member Cormier – Cannot support.

Mr. VanGoor – Suggest the Board table to allow him time to discuss with his client.

Member Kelly suggested that a stormwater management plan be included in any future submittal.

Member Byrna motioned, with support by Kelly to table the request for a period not to exceed six months, pending submission of an amended plan.

Motion Carried

Agenda Item **5**
Appeal Number: **06-ZBA-634**
Property Tax ID: **04-18-300-008**
Applicant Name(s): **Lee Tremper/Spaulding Trust**
Property Address: **14210 Eisenbeiser Drive**

	Required by the Ordinance (12.01.E)	Proposed for Parcel A	Proposed for Parcel B	Proposed for Parcel C	Proposed for Parcel D
Minimum Lot Area	2 acres	2.01 acres	2.52 acres	2.00 acres	2.03 acres
Minimum Lot Width/Road Frontage	150 feet from front setback line	203 feet	582 feet	119.32 feet	At least 150 feet
Minimum Front Yard Setback	150 feet (Parcel A); 50 feet (Parcels B,C,D)	n/a. Parcel is vacant	n/a. Parcel is vacant	n/a. Parcel is vacant	84.6 feet (water side). At least 50 feet (road side).
Minimum Side Yard Setback	15 feet	n/a. Parcel is vacant	n/a. Parcel is vacant	n/a. Parcel is vacant	42.3 feet
Minimum Rear Yard Setbacks	30 feet	n/a. Parcel is vacant	n/a. Parcel is vacant	n/a. Parcel is vacant	This parcel has no rear yard
Minimum Lot Width-to-Depth Ratio	1:4 (i.e. .25)	At least .37	At least 1.00	.208	At least .30
Maximum Lot Coverage	10%	n/a. Parcel is vacant	n/a. Parcel is vacant	n/a. Parcel is vacant	Less than 10%
Purpose: To split parcel at 14210 Eisenbeiser Drive (Parcel 04-18-300-008) into four (4) parcels. The plot plan refers to these parcels as “Parcel A, B, C, and D.” The parent parcel contains a single family home with an attached garage. This is proposed to be Parcel D in the plot plan.					

Due to the length of the listing, persons notified were not read aloud by Chairman Burch. The list is on file in the township office.

Patrick Sloan, Director of Planning and Zoning, described the variances being requested.

Member Kelly stated she felt that, given the natural contour of the property, it is clear that a variance is needed to prevent future disputes between neighbors. She also pointed out to other members of the Board that the only decision being made tonight concerns the variances sought, not the land division or private road issues.

Member Gajewski pointed out that the State Land Division Act allows for exemptions and the last split doesn't need to meet the 150' requirement. “Large Lot” zoning is not good, supports proposal.

Member Byma – No Comments

Member Cormier – No concerns with construction of future structures, but feels the land division could be done without a variance.

Public Comment - None

Member Gajewski motioned and Kelly supported to approve as requested based on the following findings of fact:

1. Special conditions and circumstances exist which are unique to the land, structures or buildings involved, and are not applicable to other lands, structures or buildings;
2. The special circumstances and conditions on which the appeal is based do not result from the actions of the applicant;
3. Literal interpretation of this Ordinance would deprive the applicant of the rights commonly enjoyed by other property owners under the terms of this Ordinance;
4. Granting the appeal will not confer upon the applicant any special privilege that is denied by this Ordinance to other lands;
5. The existence of nonconforming parcels or nonconforming uses of parcels, structures, or buildings under the Township’s Zoning Ordinance or other regulatory ordinances shall not be considered grounds for the issuance of an appeal.
6. An appeal granting a waiver or variance of the ordinance shall be the minimum variance that will make possible a reasonable division of land in accordance with law and not otherwise detrimental to the public interest.

Roll Call Vote: Byma – Yes Cormier – No Kelly – Yes Gajewski – Yes Burch – Yes

Chair Burch declared the Motion Carried.

Agenda Item 7
Appeal Number: 06-ZBA-635
Applicant Name(s): Katrina Stewart

Property Tax ID: 04-07-108-001
Property Address: 13505 Edgewater Drive

Variations Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
19.02.A.1	--	Yes	No	To allow for the transfer or sale of all 3 parcels, which are currently in single ownership, contiguous, and nonconforming
12.02.E.1	6,000 sq. ft.	6,000 sq. ft.	1 acre	Recognize lot is less than 1 acre
12.02.E.2	50 ft.	50 ft.	150 ft.	Recognize lot is less than 150 ft. wide
12.02.E.3.c	9 ft.	9 ft.	30 ft.	Recognize rear setback is less than 30 ft.
18.22	452 sq. ft.	452 sq. ft.	1,040 sq. ft.	Recognize square footage of the dwelling is less than 1,040 sq. ft.

Property Tax ID: 04-07-108-004
Property Address: 13533 Edgewater Drive

Variances Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
19.02.A.1	--	Yes	No	To allow for the transfer or sale of all 3 parcels, which are currently in single ownership, contiguous, and nonconforming
12.02.E.1	6,000 sq. ft.	6,000 sq. ft.	1 acre	Recognize lot is less than 1 acre
12.02.E.2	50 ft.	50 ft.	150 ft.	Recognize lot is less than 150 ft. wide
18.23.A	20 ft.	20 ft.	50 ft.	Recognize front yard setback is less than 50 ft.
12.02.E.3.b	4.5 ft.	4.5 ft.	5 ft.	Recognize side yard setback is less than 4.5 ft.
18.18.C	6.7 ft.	6.7 ft.	10 ft.	Recognize rear yard setback for the accessory structure is less than 10 ft.
12.02.E.4	25.46%	25.46%	25%	Recognize lot coverage is more than 25%
18.22	880 sq. ft.	880 sq. ft.	1,040 sq. ft.	Recognize square footage of the dwelling is less than 1,040 sq. ft.

Property Tax ID: 04-07-108-017
Property Address: 13521 Edgewater Drive

Variances Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
19.02.A.1	--	Yes	No	To allow for the transfer or sale of all 3 parcels, which are currently in single ownership, contiguous, and nonconforming
12.02.E.1	12,000 sq. ft.	12,000 sq. ft.	1 acre	Recognize lot is less than 1 acre
12.02.E.2	100 ft.	100 ft.	150 ft.	Recognize lot is less than 150 ft. wide
18.23.A	37.5 ft.	37.5 ft.	50 ft.	Recognize front yard setback is less than 50 ft.
12.02.E.3.b	1.5 ft.	1.5 ft.	8 ft.	Recognize side yard setback is less than the required 8 ft.

Due to the length of the listing, persons notified were not read aloud by Chairman Burch. The list is on file in the township office.

Patrick Sloan, Director of Planning and Zoning, described the variances being requested.

Board Comments –

Member Kelly questioned the Board and the Applicant as to whether or not she should recuse herself from hearing the Stewart appeal due to the previous administrative interpretation appeal concerning the Stewart property where the Township Board was the appealing party. Kelly stated that she believed that she could render an impartial decision in the case.

The concensus of the Board and Ms. Stewart was that Member Kelly did not have a conflict of interest and, therefore, could hear and vote on the appeal.

Chair Burch stated that he did not have concerns regarding this request as the property ID's have never been combined into one and the applicant has never filed a homestead exemption form for more than one of the properties. Would like to see a restriction for a 9' setback on the east side of 13533.

Gajewski – Agrees with Burch

Cormier – Could not find reason to say no.

Byma – No Comment

Kelly – No Comment

Motion by Byma, supported by Kelly to approve the requested lot splits with the condition that a restriction for a 9' east side setback on 13533 Edgewater be recorded on the deed.

Roll Call Vote: Cormier – Yes Gajewski – Yes Byma – Yes Burch – Yes Kelly – Yes

Chair Burch declared the **Motion Carried**.

Motion by Kelly, supported by Byma to remove agenda item 1 from the table for reconsideration. **Motion Carried**.

Noting that the applicant, Mr. Curran, had not appeared during the meeting, Kelly motioned and Byma supported tabling Mr. Curran's request until the applicant is able to appear to demonstrate why he is requesting variance and to answer questions that the Board may have. **Motion Carried**.

VI. Public Comment:

Marcia Ottoman – Newly appointed Planning Commissioner would like to strengthen Zoning Ordinance in regards to farming.

Ron Chisa – Portage Lake wanted to get in touch with Bill Gajewski to discuss his stormwater management plan. Neighbor has put up a 6' fence which is currently being investigated by the Zoning Department at the Township. Will wait until matter is resolved then will discuss plan with Gajewski.

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

Chair Burch - Noted that members should submit comments/concerns concerning proposed By-Laws.

Recording Secretary, DeNette Bolyard – Reminded members that the August ZBA meeting has been moved to Monday, August 7, 2006 due to the primary election. In addition, no new ZBA applications will be accepted for the August meeting due to the revised noticing requirements of the new Planning Act. Member Byma will be absent from the August meeting.

VIII. Approval of Meeting Minutes

Motion by Kelly, supported by Byma to approve the minutes of June 13, 2006 as amended. **Motion Carried**

IX. Adjournment

Motion by Kelly, supported by Gajewski to adjourn the meeting at 9:45 p.m. **Motion Carried**

Respectfully submitted,

DeNette Bolyard,
Recording Secretary

Pat Kelly
Secretary