



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, December 12, 2006 7:00 PM

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

Members absent: None

Also present: Patrick Sloan, Director of Planning and Zoning and DeNette Bolyard, Office Manager-Recording Secretary.

- I. Call to Order:** The meeting was called to order by Chairman Burch at 7:13 p.m.
- II. Pledge of Allegiance:** Chair Burch led the Pledge of Allegiance to the Flag
- III. Approval of Agenda:** There was a motion by Kelly, support by Cormier to approve the agenda as submitted. Carried
- IV. Public Comment- Non Agenda Items:** None
- V. Action Items:**

Agenda Item #	1
Appeal Number:	06-ZBA-642
Property Tax ID:	04-03-207-007
Applicant Name(s):	Dave Furey
Property Address:	9311 Anne Street

Variances Requested Per Submitted ZBA Application:				
<u>Section</u>	<u>Previous</u>	<u>Requested</u>	<u>Permitted</u>	<u>Description/Notes</u>
12.02.E.1	.075 acres	.075 acres	1 acre	Recognize lot area is less than 1 acre.
12.02.E.2	Approx. 36 feet	Approx. 36 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	Approx. 14 feet (road side)	Approx. 14 feet (road side)	50 feet	Recognize current front yard setback on the road side is less than 50 feet.
12.02.E.3.a	33 feet (water side)	24 feet* (water side)	50 feet	To allow further encroachment into the required front yard setback on the water side.
12.02.E.3.b	0' (southeast); 1' (northwest)	0' (southeast); 1' (northwest)	5 feet	Recognize current side yard setbacks are less than 5 feet.
12.02.E.4	43.18%	44.33%	25%	Recognize lot coverage is more than 25%.
18.18.F.3	6-7 feet*	6-7 feet	3 feet	To allow a fence height greater than the maximum allowed.

**Constructed in the spring of 2006 without a zoning permit or a variance.*

Patrick Sloan, Director of Planning and Zoning gave a brief history of the applicant’s variance request to date.

Concerns and Discussion from the Board Members:

- Kelly stated she would like to hear the Aldrich’s point of view regarding the fence.
- Gajewski stated he felt that there wasn’t a practical difficulty demonstrated and that erosion may have been caused by pre-existing lot coverage.
- Kelly indicated that a stormwater management plan was not submitted with the application. Also, the requested lot coverage would be one of the largest, if not the largest ever before the ZBA under the current Zoning Ordinance.
- Cormier still has concerns over the size of the deck and the amount of impervious surface it would create.
- Kelly stated that the applicant’s testimony lacked credibility as far as she was concerned due to contractor or applicant not obtaining any permits of any kind. Kelly indicated she doesn’t feel she can take his word for the size of the deck and fence. She stated it was important to establish pre-existing structures to determine how much of an increase in nonconformity was being requested. It was noted that physical evidence of the pre-existing structures was not presented by the applicant.

Mr. Fury agreed to request an expert to assess the stormwater management plan. Board Member Gajewski named a few companies that applicant could contact.

After discussion a motion was made by Kelly supported by Gajewski to table application no later than the March 13, 2007 meeting. Amended site plan to include a stormwater management plan to handle a 1” rain event. Also a detailed soil and erosion permit. Permit and fees to be satisfied prior to approval.

Cormier indicated that the size of the deck was still a concern of his.

Motion carried 5-0

Agenda Item #	2
Appeal Number:	06-ZBA-637
Property Tax ID:	04-15-200-011
Applicant Name(s):	Joseph Machnik
Property Address:	None

Variations Requested Per Submitted ZBA Application:				
Section	Current	Requested	Permitted	Description/Notes
12.02.E.1	.67 acres	.67 acres	2 acres	Recognize lot area is less than 2 acres.
12.02.E.2	Approx. 124 feet	Approx. 124 feet	150 feet	Recognize lot width is less than 150 feet.
12.02.E.3.a	--	56 feet (N. Territorial)	150 feet	To allow the proposed structure to encroach into the front yard setback along North Territorial Road.
12.02.E.3.a	--	50 feet (Dexter Townhall)	100 feet	To allow the proposed structure to encroach into the front yard setback along Dexter Townhall Road.
12.02.E.3.c	--	15 feet (north side)	30 feet	To all the proposed structure to encroach into the

				rear yard setback on the north side of the parcel.
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Patrick Sloan, Director of Planning and Zoning gave a brief history of application. Kelly made a motion supported by Gajewski to table for no longer than a three month period. Carried.

Agenda Item #	3
Appeal Number:	06-ZBA-650
Property Tax ID:	04-13-100-021
Applicant Name(s):	John & Jane Kelly (Owners)/ Susan Bryan (Landscape Architect)
Property Address:	9449 Huron River Drive

Appeals Requested Per Submitted ZBA Application:	
Section	Description/Notes
4.06.A.2	Administrative Review of Zoning Administrator decision to deny Home Occupation Permit
4.06.A.2	Administrative Review of Zoning Administrator interpretation of on-site operation as “landscape nursery operation.”
	The purpose of this variance application is to appeal my decision to deny the owner a home occupation permit. Buildings on the site include a single family home and a detached 40’ x 64’ pole barn. The pole barn is used for storing materials and heavy machinery associated with John Kelly Landscaping. The front (east) portion of the site contains a large area dedicated to the storage of sand, stone, mulch, soil, and firewood. According to the applicant, employees drive to the house, park their vehicles, load a truck, drive the truck off-site, return the truck to the site, and leave at the end of the day. Any land use that includes employee parking, storage and loading of materials, and regular on-site operation of heavy machinery is not a permitted use in the Rural Residential District.

Patrick Sloan, Director of Planning and Zoning, described to the Board and public what variance the applicant was seeking.

John Kelly, applicant explained to the Board what he felt his operation entailed.

Chair Burch read aloud two letters of support received from the Kelly’s neighbors.

Board Discussion:

- Gajewski stated that the use does not meet section 18.19 of the zoning ordinance. Stated that it is commercial use of a residential property. Cited a court case that pertained. Indicated that there are two items the ZBA needed to rule on. 1) Whether or not the applicant can apply for a home occupation permit. 2) Whether or not a special land use needs to be applied for this use.
- Kelly stated she felt that the applicant should be allowed to be granted a home occupation permit for the office portion only, but that a special land use was also needed.

- Byma - Agrees with Kelly. Feels a home occupation permit should be granted as there are numerous small “farms” around the Township.
- Byma proposed a motion which would state that Patrick Sloan was correct in his interpretation of the zoning ordinance and that he should assist the applicant in applying for the permits which would make the operation legal. Also stated that the township should waive certain details that are required in the site plan application, in Section 6.03.B.
- Cormier supported Byma’s motion, however, requested that he restate it.
- Byma said that the motion should read as follows:

Deny challenge by the applicant pertaining to Patrick Sloan’s interpretation of the zoning ordinance by denying the applicant a home occupation permit. Sloan is to assist Mr. Kelly with the special land use application by exploring ways to lessen the burden of the site plan detail. This will help applicant come into compliance with the zoning laws. The Planning Commission will be the body to decide whether or not this use will be an appropriate use or if certain aspects of the application for special land use can be relaxed.

This application will be tabled until after Byma and Sloan can meet to determine which sections of the ordinance could be relaxed, if any.

Motion died due to lack of support.

Kelly made a motion to table this request until January 7, 2007. Cormier supported. Carried 5-0

VI. Public Comment: None

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

VIII. Approval of Meeting Minutes

Minutes of September 12, 2006 meeting - Motion by Kelly, supported by Cormier to table the review of the minutes to the next ZBA meeting. Carried.

Minutes of the October 10, 2006 meeting - Patrick Sloan explained the variance requested to the public.

Motion by Gajewski, support by Cormier to approve the minutes as amended. Carried.

IX. Adjournment

Motion by Kelly, supported by Cormier to adjourn the meeting at 9:38p.m. Carried

Respectfully submitted,

DeNette Bolyard,
Recording Secretary

Pat Kelly,
Secretary

