



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

6880 DEXTER-PINCKNEY ROAD
DEXTER, MI 48130

TELEPHONE: 734-426-3767
FAX: 734-426-3833

WWW.DEXTERTOWNSHIP.ORG

BROOK SMITH
CHAIRPERSON
BETH FILIP
VICE CHAIRPERSON
PETER MAIER
SECRETARY

KATHY BRADBURY
MARTY STRAUB

DON DARNELL, ALT.
VACANT, ALT.

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday December 5, 2023

Members present: Chairperson Brook Smith, Secretary Peter Maier, Marty Straub, and Kathy Bradbury.
Absent: Beth Filip

Also present: Ashley Cepeda, Zoning Officer, and Janis Miller, Recording Secretary.

1. **Call to Order:** Chairperson Smith called the meeting to order at 6:00 PM.
2. **Pledge of Allegiance:** Recited by all.
3. **Approval of Agenda:**
With no corrections or additions, the Chair deemed the agenda approved as submitted.
4. **Approval of Minutes:**
Motion by Maier to approve the November 7, 2023 minutes as amended. Motion seconded by Straub. All ayes. Motion carried.
5. **Public Comment – Non-Agenda Items:** Opened 6:03 PM. No public comments.
6. **Public Hearing Procedure:** Posted on sign-in table and podium.
7. **Action Items:**

Item #1 (23-ZBA-06) Bradley Devries, for Cornman LLC, 8540 Island Lake Rd.

Variations:

- a) Request for variance from Section 16.12 requiring a maximum lot building coverage be 11,543 sq. ft.

a. Conflict of Interest/Ex-parte Contact Review:

As Chair of the Planning Commission, Marty Straub stated that the Planning Commission conducted a Public Hearing last week to review the Preliminary Site Plan and an amendment to the Special Land Use for Cornman LLC. There was no discussion or vote on variations.

Motion by Bradbury to allow Marty Straub to participate in deliberations [and voting] for Cornman LLC. Motion seconded by Maier. All ayes. Motion carried.

b. Staff Presentation and Questions from ZBA members:

Zoning Officer Ashley Cepeda presented the project and the variance that was requested. She answered questions from the ZBA members.

c. Petitioner Presentation and Questions from ZBA members:

Applicants and co-owners Kieron Hales and Tabitha Mason; and Slowtide Studio Architect Bradley Devries;

Ms. Mason stated that they were reducing the size of their events and wanted to replace the tent with a permanent pavilion to accommodate year-round indoor events.

Developer Devries stated that the Zoning Ordinance did not take into account Rural Residential (RR) lots larger than five acres when considering lot coverage.

Chairperson Smith asked what was unique about the property that constituted a practical difficulty [decision criteria]. Zoning Officer Ashley Cepeda will research previous variances. The trio answered questions from ZBA members.

d. Public Comment:

i. letters and/or emails: positively in favor of approval

ii. comments from public in attendance: no public comments

d. Zoning Board of Appeals deliberations and Standards of Review:

Chairperson Smith informed the applicants that there was one board member missing and with four members present tonight, they needed three votes to approve the variance. The applicant wanted to listen to the deliberations before deciding. At conclusion of the deliberations Chairperson Smith asked if they wanted to postpone the hearing to present additional research information the ZBA is seeking.

Applicant requests postponement.

Motion by Straub, seconded by Maier, to postpone (23-ZBA- 006) to the next meeting with a request that staff provide history of the property for context.

Roll Call Vote: Yeas – Bradbury, Straub, Maier, and Smith: Nays - None: Absent – Filip.
Motion carried 4-0.

Item #2 (23-ZBA-007) Alan and Linda Selbert. 9586 Winston Rd.

Variations:

a) Request for variance from Section 16.34(A) requiring when there are principal buildings on both adjacent lots, the waterbody setback shall be a straight line drawn between the adjacent principal buildings.

a. Conflict of Interest/Ex-parte Contact Review:

No conflicts of interest.

b. Staff Presentation and Questions from ZBA members:

Zoning Officer Ashley Cepeda presented the project and the contested waterbody setback that would prevent the applicants from building a home on the property. She answered questions from the ZBA members.

c. Petitioner Presentation and Questions from ZBA members:

Alan Selbert stated that they wanted to build an “age-in-place” home on the property where no structures currently exist. The purchase of the property is contingent on the approval of the requested variance. The front and side setbacks can be met, it is the waterbody setback (not less than 35 feet) that is difficult due to the line drawn between the homes on either side. The previous home that was on the lot was a 33-foot waterbody setback. The house to the north is setback more than 50 feet from the waterbody, and the house to the south is approximately 40 feet from the waterbody.

d. Public Comment: Opened 7:29 PM

i. letters and/or emails: One letter in support of the new building if the drainage issues are addressed and enforced.

ii. comments from public in attendance: Kim Bowles, who lives two doors down, was concerned about the drainage as her yard is under water when it rains.

d. Zoning Board of Appeals deliberations and Standards of Review:

Discussion: The uniqueness of the lot is the practical difficulty as there isn’t a way to build a reasonably size house and meet all the setbacks. The possibility that if the variance was approved, the house might obscure the view of another house. If this was a problem, the ZBA would have heard from the neighbors [who were notified of the waterbody setback requested variance]. The real issue is how the other homes were constructed [setbacks] after the fire destroyed most of them.

Standards of Review:

(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u>
Notes: See Note below for change in voting.	Maier Smith Bradbury Straub
	<u>NO</u> Bradbury Straub

(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Bradbury Maier Straub Smith <u>NO</u> None
Notes:	

(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Bradbury Maier Smith <u>NO</u> Straub
Notes:	

(4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Bradbury Maier Smith <u>NO</u> Straub
Notes:	

(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i>	<u>YES</u> Bradbury Maier Straub Smith <u>NO</u> None
Notes:	

(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.</i>	<u>YES</u> Bradbury

Documents regarding the agenda items can be obtained at the Township Hall during normal business hours, the Townships website: www.dextertownship.org and can be viewed on ew.livestream.com/dextertownship.org.

Notes:	Maier Straub Smith <u>NO</u> None
(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i>	<u>YES</u>
Notes:	Bradbury Maier Smith <u>NO</u> Straub

NOTE: After discussion, the Chair asked if anyone wanted to change their votes on #1 Practical Difficulty. Both Bradbury and Straub changed their votes to “yes” which meant the requirements for the variance were met.

e. Motion by Zoning Board of Appeals:

Motion by Straub to grant approval of the variance for (23-ZBA-007), to Alan and Linda Selbert, 9586 Winston Rd., tax id (D-02-401-019), for a setback of 40 feet instead of the straight line between buildings [ZO §16.34(A)]. Motion seconded by Maier.

**Roll Call Vote: Yeas – Bradbury, Maier, Straub, and Smith: Nays - None:
 Absent – Filip. Motion carried 4 - 0.**

Item #3 (23-ZBA-008) Alan & Linda Selbert, 9586 Winston Rd.

Variations:

- a) Request for variance from Section 7.07(3) requiring 25-foot local and private road setback.

a. Conflict of Interest/Ex-parte Contact Review:

No conflicts of interest.

b. Staff Presentation and Questions from ZBA members:

Zoning Officer Ashley Cepeda presented the project as a new 24ft X 40ft garage across the street from new house. The garage would be fronted on three sides by roadway, meeting setbacks on two sides but not on Winston Rd. The applicant is looking for a variance less than the 25-foot requirement. The two sheds on the property would be torn down.

c. Petitioner Presentation and Questions from ZBA members:

Alan Selbert said the garage would complement the house in design and color. The setback of 25 feet would be met on two sides but not on the Winston Rd. side. He felt the garage and house would increase the value of the neighborhood.

d. Public Comment: Opened 8:19 PM

- i. letters and/or emails:** Only letter with previous variance request.
- ii. comments from public in attendance:** No public comments.

e. Zoning Board of Appeals deliberations and Standards of Review:

Measurements from both ends of the building are needed to deliberate. No actual plans submitted. The garage is 24 feet wide, which is a standard size and consistent with garages in the lake area, fronting on Winston Rd.

Standards of Review:

(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Bradbury Maier Straub Smith
Notes:	<u>NO</u> None
(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Bradbury Maier Straub Smith
Notes:	<u>NO</u> None
(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard	18.18(D)(1) Lot Coverage
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Bradbury Maier Straub Smith
Notes:	<u>NO</u> None

Documents regarding the agenda items can be obtained at the Township Hall during normal business hours, the Townships website: www.dextertownship.org and can be viewed on ew.livestream.com/dextertownship.org.

<p>4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard</p>	<p>18.18(D)(1) Lot Coverage</p>
<p><i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i> Notes:</p>	<p><u>YES</u> Bradbury Maier Straub Smith</p> <p><u>NO</u> None</p>
<p>(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard</p>	<p>18.18(D)(1) Lot Coverage</p>
<p><i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i> Notes:</p>	<p><u>YES</u> Bradbury Maier Straub Smith</p> <p><u>NO</u> None</p>
<p>(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard</p>	<p>18.18(D)(1) Lot Coverage</p>
<p><i>Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.</i> Notes:</p>	<p><u>YES</u> Bradbury Maier Straub Smith</p> <p><u>NO</u> None</p>
<p>(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard</p>	<p>18.18(D)(1) Lot Coverage</p>
<p><i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i> Notes:</p>	<p><u>YES</u> Bradbury Maier Straub Smith</p> <p><u>NO</u> None</p>

f. Motion by Zoning Board of Appeals:

Motion by Straub to approve (23-ZBA-008), for Alan and Linda Selbert, 9586 Winston Rd., tax id (D-04-02-401-002), a requested variance allowing 8 feet

Documents regarding the agenda items can be obtained at the Township Hall during normal business hours, the Townships website: www.dextertownship.org and can be viewed on ew.livestream.com/dextertownship.org.

roadway setback from Winston Rd., instead of the required 25 feet. Motion seconded by Maier.

**Roll Call Vote: Yeas – Bradbury, Maier, Straub, and Smith: Nays - None:
Absent – Filip. Motion carried 5 - 0.**

8. Public Comment: Opened 8:56 PM. No public comments.

9. Concerns of ZBA Members, DPZ, and Recording Secretary:

Recording Secretary: Complemented Marty Straub for the motions in Beth Phillip’s absence.

Zoning Officer Ashley Cepeda: Apologized for the lateness of then ZBA packets.

Straub: He requested that each applicant and their supporting documents be stapled together so the papers don’t get intermixed.

Chairperson Smith: Stated if case law is referred to [in the memo from the Township Planning Consultant regarding decision matrix #4 “reasonable amount”] then the case law number and wording should be included in the memo.

Straub: He said the Planning Commission was asked to weigh in on this but they did not formulate a motion to mitigate the problem.

As there is a conflict with the ZBA meeting on Tuesday, January 2nd, the ZBA will instead meet on Tuesday, January 9th.

10. Adjournment

Chairperson Smith declared the meeting adjourned at 8:59 PM.

Respectfully submitted,

Peter Maier, Secretary

Janis Miller, Recording Secretary