



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

6880 DEXTER-PINCKNEY ROAD
DEXTER, MI 48130

TELEPHONE: 734-426-3767

FAX: 734-426-3833

WWW.DEXTERTOWNSHIP.ORG

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CHAIRPERSON
BETH FILIP
VICE CHAIRPERSON

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KATHY BRADBURY
MARTY STRAUB

DON DARNELL, *ALT.*
AARON WORSHAM, *ALT.*

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday July 2, 2024

Members present: Chairperson Brook Smith, Secretary Peter Maier, and Marty Straub.

Absent: Beth Filip and Kathy Bradbury.

Alternates present: Don Darnell and Aaron Worsham.

Also present: Ashley Cepeda, Zoning Administrator; Sarah Gabis, Attorney; 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:**
(24-ZBA-005) Jackie Bates requested postponement of her appeal.
Motion by Straub to approve the postponement of Action Item #2 [and approve the agenda as amended]. Motion seconded by Darnell. All ayes. Motion carried.
- 4. Approval of Minutes:**
Motion by Maier to approve the minutes of June 4, 2024 as presented. Motion seconded by Straub. All ayes. Motion carried.
- 5. Public Comment – Non-Agenda Items:** Opened 6 :04 PM.
Dan Lofgren, 8115 Stonehedge. Gregory
Dan had filed a grievance against his neighbor. After inspection by the township Zoning Administrator the neighbor complied with the suggested solutions. Dan had received a letter the from the township Department of Planning and Zoning that the case was closed so he was asking the ZBA for their assistance in opening the case and resolving what he perceived as the problem. Chair Smith responded that the ZBA was the platform for variances and did not have the jurisdiction to resolve his problem, suggesting he contact the Supervisor. Attorney Gabis stated that the township cannot remedy every problem and suggested he pursue private action with his own attorney.
Closed 6:13 PM.
- 6. Action Items:**
Item #1 (24-ZBA-004) Walter Construction Company on behalf of Jim Gega, 8797 Fairway Drive.

Variance:

- a) Request for variance from Section 7.02: rear yard setback [applicant requesting a 7-foot setback instead of the required 30-foot setback].

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

No conflict of interest.

B. Staff Presentation and Questions from ZBA members:

The applicant is removing an existing residential home and constructing a new single-family residence with an attached garage. This is an irregular shaped, legally non-conforming, lot of .319 acres, in the Lake Residential District. The lot has no side yards. The builder was trying to adhere to normal side yard setbacks.

C. Petitioner Presentation and Questions from ZBA members:

Jim Walter of Walter Construction: The lot has two front yards and two rear yards as defined in Section 2.02(L)(18) of the Zoning Ordinance. He stated that the front of the house was on the lake and it should be considered the front yard setback, with a twenty-foot setback on Fairway Drive. It is hard to orient a newly constructed home on the lot without the setback requested. Chairperson Smith noted that as stated in the Ordinance there were no drawings, in the ZBA packet, of other structures within 100 feet. Straub asked Zoning Administrator Ashley Cepeda for the setbacks of other properties on Fairway Drive, relative to what the applicant is asking.

D. Public Comment:

- i. letters and/or emails – None.
- ii. comments from public in attendance – None.

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

Deliberations: ~~Closer to the road is not superior to where they placed the home.~~ **Locating the structure closer to Fairview, to increase the rear set-back, would not be better than where the applicant placed the home.** The neighbors are more affected by the two feet, and there was no input of letters/emails or attendance from the neighbors. A lay person would see **the area behind the proposed residence** ~~this~~ as a side-yard. They have come up with the best plan they can on an unusual lot.

Standards of Review:

<p>(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard</p>	<p>7.02 Rear yard setback</p>
<p><i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i> Notes: Smith – Clearly the shape and size of tis lot makes it impossible to build a house that would meet all of our setback requirements.</p>	<p><u>YES</u> Darnell Worsham Straub Maier Smith</p> <p><u>NO</u> None</p>

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(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard	7.02 Rear yard setback
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Darnell Worsham Straub Maier Smith
Notes: Smith – Again, it is a most unusually shaped lot so clearly something having to do with the peculiar condition of the property.	<u>NO</u> None

(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard	7.02 Rear yard setback
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Darnell Worsham Straub Maier Smith
Notes: Smith – There is no evidence the applicant had anything to do with creating the shape of this lot.	<u>NO</u> None

4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard	7.02 Rear yard setback
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Darnell Worsham Straub Maier Smith
Notes: Darnell – Seems reasonable. Worsham – Seems reasonable, yes. Smith – Yes, we’ve talked through the problems of moving it around on the lot and clearly, they’ve attempted to get the front setback within boundaries, and in so doing the back setback was sacrificed a little bit. It’s what they had to do.	<u>NO</u> None

(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard	7.02 Rear yard setback
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i>	<u>YES</u> Darnell Worsham Straub Maier Smith
Notes: Darnell – Yes, no injury. Smith – I agree, there has been no evidence that this would cause any problems with public health, safety, and welfare.	

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	<u>NO</u> None
(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard	7.02 Rear yard setback
<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> Darnell Worsham Straub Maier Smith
Notes: Darnell – Yes, and I should note that it appears that the adjacent properties would also use it as a side yard.	<u>NO</u> None
(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard	7.02 Rear yard setback
<i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i>	<u>YES</u> Darnell Worsham Straub Maier Smith
Notes:	<u>NO</u> None

F. Motion by Zoning Board of Appeals:

Motion by Smith to approve the variance petition number (24-ZBA-004), for the property located at 8797 Fairway Drive, tax ID D-04-06-461-001, for the requested variance under Section 7.02, to permit a rear yard setback of 7 feet, instead of the normally required 30 feet, recognizing any legal non-conformities. Motion seconded by Maier.

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

Chairperson Smith congratulated the applicant on their variance and stated that they had a year to act on it.

Item #2 (24-ZBA-005) Jackie Bates, 9405 Linck Drive

Prior to the meeting applicant Bates asked to postpone her appeal.

7. Public Comment: Opened 6:36 PM. No public comments.

8. Concerns of Zoning Board of Appeals Members, Planning and Zoning Department, and

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Recording Secretary:

Zoning Administrator Cepeda – She noted that next week would be her last week with Dexter Township.

Straub – He asked about the construction of large pipes on North Territorial, west of Toma, and if they got a permit and what it would look like when finished. Zoning Administrator Cepeda said that Consumers Energy was going through a site plan review.

Straub – A resident asked about what appears to be an accessory dwelling unit on Algonquin. Zoning Administrator Cepeda said that it was a single-family home and Attorney Gabis added a building permit was issued and she is preparing a legal opinion for the township.

Smith – He was concerned with what documents the ZBA received for review.

Straub – He noted that plot plans were not required and without a survey, the applicant needs to include a drawing of what buildings are near the proposed structure.

Jim Drolett said [with Ashley Cepeda’s departure] the township needed someone full time to understand and interpret the Zoning Ordinance.

9. Adjournment

Chairperson Smith declared the meeting adjourned at 6:57 PM.

Respectfully submitted,

Peter Maier, Secretary

Janis Miller, Recording Secretary