



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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BROOK SMITH
CHAIRPERSON

BETH FILIP
VICE CHAIRPERSON

JAY HOLLAND
SECRETARY

PETER MAIER
MARTY STRAUB

DON DARNELL, *ALT.*
VACANT, *ALT.*

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday May 4, 2021

The meeting was a "virtual" meeting held over the Zoom platform, properly noticed and available for public participation.

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Jay Holland, and Marty Straub. Absent: Peter Maier

Also present: David Rohr, Director of Zoning and Planning; and Janis Miller, Recording Secretary.

1. **Call to Order and Pledge of Allegiance:** Call to order at 6:01 pm. Pledge of Allegiance omitted due to teleconferencing.
2. **Approval of Agenda:** Without additions or corrections, Chairperson Smith declare the agenda approved as presented.
3. **Approval of Minutes:** Motion by Straub to approve the minutes of April 6, 2021, as amended. Motion second by Filip. Motion carried by voice vote.
4. **Public Comment – Non-Agenda Items:** None.
5. **Public Hearing Procedure Review:** Chairperson Smith reviewed the Public Comment Policy for the virtual public participants.
6. **Action Items:**

Item #1 (21-ZBA-891AB) Stephen Goble, 9108 McGregor Rd., Pinckney

Variations:

- A) A dimensional variance for reduced front setback of twenty-seven (27) feet from McGregor Rd. rather than the fifty (50) feet required.
- B) A dimensional variance for reduced side setback of three (3) feet rather than the five (5) feet required.

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

Holland had a chat with the neighbor.

b. Staff Presentation and Questions from ZBA members:

DPZ Rohr summarized the requested two-dimensional variances in a Lakes Residential District. This is a small parcel with the house built at an angle on the property. The proposed four hundred and eighty (480) square foot garage will parallel the house at the same angle.

c. Petitioner Presentation and Questions from ZBA members:

Applicant Goble stated that backing out onto McGregor is dangerous so therefore he needs the small 20' x 24' garage. It will also help with storage.

d. Public Comment:

i. letters and/or emails: One letter of support, one letter opposing.

ii. comments from public in attendance:

Opened 6:22 PM

Jim Westfall, 9114 McGregor Rd., Pinckney

He is concerned about the three (3) foot setback and would prefer it be the required five (5) foot setback.

M. Fournier, 9122 McGregor Rd., Pinckney

He is concerned about the three (3) foot setback on the north edge of the property and would like to see the garage moved so the three (3) foot setback is on the south edge of the property next to an easement.

Closed 6:26 PM

Prior to starting deliberations, Chairperson Smith addressed the applicant stating there were only 4 of the 5 ZBA members present and to be granted his application he needed three members to vote affirmative in each criteria; and did the applicant want to proceed or postpone. Mr. Goble stated he would withdraw his request for the three (3) foot side setback and to continue with request for the front setback.

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

Request is more than reasonable amount necessary. Shifting garage south to maintain the five (5) foot setback. Removal of arbor vitae to improve back-out sight lines. The request is relatively consistent with other buildings on McGregor. Need a new site plan filed with the DPZ showing garage shift to the south maintaining the five (5) foot setback on the north.

Standards of Review:

| (1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard: | A | B |
|---|---|----------------------|
| | Front setback 7.02 | Side setback 7.02 |
| <i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i> | YES Straub Filip Holland Smith | Withdrawn |
| Notes: Smith: We've discussed on the record but I will just mention that it's a practical difficulty because our view is that having a garage on your property is something that | | |

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.

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| others in the zoning district usually get to enjoy, so it would be a practical difficulty for him not to be able to put a garage on his property. | <u>NO</u> None | |
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| (2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard: | <u>A</u> Front setback 7.02 | <u>B</u> Side setback 7.02 |
|--|--|--|
| | <i>The practical difficulty is due to some physical condition peculiar to the property involved.</i> Notes: Filip: This is a relatively narrow and small lot and I think it would be difficult for the applicant to any other structure on this lot without some sort of variance requirement. Smith: Yes, for the reasons stated by Beth. | <u>YES</u> Straub Filip Holland Smith <u>NO</u> None |

| (3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard: | <u>A</u> Front setback 7.02 | <u>B</u> Side setback 7.02 |
|---|--|--|
| | <i>The practical difficulty is not self-created.</i> Notes: Filip: There is no evidence the applicant this lot. | <u>YES</u> Straub Filip Holland Smith <u>NO</u> None |

| (4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard: | <u>A</u> Front setback 7.02 | <u>B</u> Side setback 7.02 |
|--|---|--|
| | <i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i> Notes: Holland: Yes, I believe it is now. Smith: It's pretty clear that there wouldn't be a way to put a garage on this lot and still maintain the fifty-foot setback from McGregor Road that's required by the ordinance, and twenty-seven feet is the reasonable amount. | <u>YES</u> Straub Filip Holland Smith <u>NO</u> None |

| (5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard: | <u>A</u> Front setback 7.02 | <u>B</u> Side setback 7.02 |
|---|---|----------------------------------|
| | <i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i> | <u>YES</u> Straub |

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| Notes: Filip: No evidence has been provided that it would. | Filip Holland Smith <u>NO</u> None | |
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| (6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard: | A | B |
|---|---|----------------------|
| | Front setback 7.02 | Side setback 7.02 |
| Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner. | <u>YES</u> Straub Filip Holland Smith | Withdrawn |
| Notes: Filip: No evidence proven otherwise. | <u>NO</u> None | |

| (7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard: | A | B |
|--|---|----------------------|
| | Front setback 7.02 | Side setback 7.02 |
| Approval of the variance is consistent with the intent and purpose of this Ordinance. | <u>YES</u> Straub Filip Holland Smith | Withdrawn |
| Notes: Smith: I'm pretty sure that this is the sort of thing the ordinance intends. | <u>NO</u> None | |

Discussion: Possible conditions. Building within substantial conformance of submittals.

e. Motion by Zoning Board of Appeals:

Motion by Filip to approve the variance for a reduced front setback from McGregor Road for petition (21-ZBA-891A) for applicant Stephen Goble, 9108 McGregor Road, tax id (D-04-01-480-015), to construct a two car garage, noting that the dimensional variance for the reduced side setback being withdrawn in this meeting, to grant a twenty-seven (27) foot front yard setback from McGregor Road, under Ordinance Section 7.02, as opposed to the required fifty (50) feet front yard setback from McGregor Road. Motion second by Holland.

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

Chairperson Smith congratulated Mr. Goble and told him to act on the variance within the next year as it would expire.

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Item #2 (21-ZBA-892) Jon Inwood, 13776 Rustic Drive, Gregory

Variance:

A) A dimensional variance for reduced front setback to three point five (3.5) feet rather than the twenty-five (25) feet required.

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

Smith had a discussion with the applicant about where the stakes were located but did not discuss the variance itself.

Holland has known the applicant for a long time but has not discussed the variance with him.

b. Staff Presentation and Questions from ZBA members:

The existing forty-three (43) square foot front yard shed is in need of repair and is not large enough to park a vehicle in. The new garage will be 384 square feet, which he hopes will lessen street parking and congestion on Rustic Drive. The new garage will be keeping with the character of the neighborhood. This request came to the ZBA in 2014 under the old ordinance, which had many requirements for front-yard structures. Under the new ordinance he only needs one dimensional variance.

c. Petitioner Presentation and Questions from ZBA members:

Mr. Inwood has been to the ZBA three times previously to build this garage. He said it was impractical to repair the existing shed. Mr. Inwood noted there are two other garages, one attached and one unattached, on Rustic Drive that are as close to the street as his requested variance to build.

d. Public Comment:

i. letters and/or emails: One letter of support.

ii. comments from public in attendance:

Opened 6:54 PM

Bob Frayer, 13720 Rustic Drive, Gregory

He supports building the garage and noted that Mr. Ziel, 13806 Rustic Drive, built a garage a year ago.

Closed 6:56 PM

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

Proposed garage is the same distance from Rustic Drive as the shed, thereby not increasing noncompliance. Confirmed that the garage will be sixteen (16) feet wide and twenty-four (24) feet long, a modest one car garage. Good idea as parking a car in a garage, not on the street, improves the whole neighborhood.

Standards of Review:

| (1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard | Front setback 7.07(3) |
|--|--------------------------|
| <i>The strict application of the terms of this Ordinance would constitute a practical</i> | <u>YES</u> |

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| <p>difficulty.</p> <p>Notes: Smith: Yes, for the reasons we've already talked about; the desirability of having a functional garage in the Lakes District. We've come to see that as something that a denial which is a practical difficulty if it can possibly be achieved.</p> | <p>Straub Filip Holland Smith</p> <p><u>NO</u> None</p> |
| <p>(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard</p> | <p>Front setback 7.07(3)</p> |
| <p><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></p> | <p><u>YES</u> Straub Filip Holland Smith</p> |
| <p>Notes: Straub: Not only the size but also the topography makes this a practical difficulty. Filip: Yes, for the reasons that Marty just expressed.</p> | <p><u>NO</u> None</p> |
| <p>(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard</p> | <p>Front setback 7.07(3)</p> |
| <p><i>The practical difficulty is not self-created.</i></p> | <p><u>YES</u> Straub Filip Holland Smith</p> |
| <p>Notes: Smith: There is no evidence that the applicant built that smaller garage in the location where it is. The lot has always been the shape the lot is.</p> | <p><u>NO</u> None</p> |
| <p>4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard</p> | <p>Front setback 7.07(3)</p> |
| <p><i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i></p> | <p><u>YES</u> Straub Filip Holland Smith</p> |
| <p>Notes: Straub: It is a modest, single car garage. Filip: Yes, for the reason that Marty just said.</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>Front setback 7.07(3)</p> |
| <p><i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i></p> | <p><u>YES</u> Straub Filip Holland Smith</p> |
| <p>Notes: Filip: No evidence has been provided but I'd also suggest that this is a not very well trafficked road, and I believe in this situation this is appropriate, and evidence hasn't been provided to demonstrate otherwise. Holland: Yes, for the reasons Beth stated.</p> | <p><u>NO</u> None</p> |

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| (6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard | Front setback 7.07(3) |
| <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> Straub Filip Holland Smith |
| Notes: Smith: There's been no evidence whatsoever that this improvement, and the structure there, will be adverse to anybody in the area. | <u>NO</u> None |

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| (7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard | Front setback 7.07(3) |
| <i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i> | <u>YES</u> Straub Filip Holland Smith |
| Notes: Smith: Once again it is a good example of why you need to have provisions for variances from Zoning Ordinances. | <u>NO</u> None |

e. Motion by Zoning Board of Appeals:

Motion by Filip to approve the variance requested for petition ((21-ZBA-892), for the applicants Jon and Janice Inwood, for the property located at 13776 Rustic Drive, tax id (D-04-18-432-004), for a dimensional variance for a reduced front yard setback, wherein we are granting the requested setback of three-point five (3.5) feet, under Ordinance Section 7.07(3), as opposed to the twenty-five (25) foot front yard setback otherwise required. Motion second by Holland.

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

Chairperson Smith congratulated Mr. Inwood stating third time is the charm and he should move forward quickly to utilize it as within a year it would go away.

Item #3 (21-ZBA-893) Chelsea Conger, 10660 Island Lake Road, Dexter

Variance:

- A) A dimensional variance for reduced front setback to thirty point three (30.3) feet rather than the eighty (80) feet require.

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

Filip knows the applicant but had not discussed the application.

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Holland had a short chat with Mr. Conger but not about the application.

b. Staff Presentation and Questions from ZBA members:

This is a vertical extension on the front of their house to expand the second story 468square feet, adding living space. This an old home built approximately 1900 and about 33 feet to the road edge. This is an expansion of a nonconformity as the existing foot print of the house will not change. The applicant is requesting one (1) dimensional variance from Rural Residential (RR) development standards.

c. Petitioner Presentation and Questions from ZBA members:

Applicant Chelsea Conger stated they have two boys and would like each to have their own room.

d. Public Comment:

i. letters and/or emails: None.

ii. comments from public in attendance:

Opened 7:10 PM No public comments. **Closed 7:11 PM**

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

Vertical expansion to add living space. Straightforward application.

Standards of Review:

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| (1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard | Front setback 6.07(3) |
| <i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i> | <u>YES</u> Straub Filip Holland Smith |
| Notes: Smith: The farmhouse was positioned at its current location many years before the Township decided that that was too close to the road, and so this is the ability to construct the second story on tis home makes a lot of sense. | <u>NO</u> None |
| (2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard | Front setback 6.07(3) |
| <i>The practical difficulty is due to some physical condition peculiar to the property involved.</i> | <u>YES</u> Straub Filip Holland Smith |
| Notes: Filip: Yes, for the reasons mentioned earlier in regard to criteria one. | <u>NO</u> None |

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| <p>(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard</p> | <p>Front setback 6.07(3)</p> |
| <p><i>The practical difficulty is not self-created.</i></p> | <p><u>YES</u></p> |
| <p>Notes: Smith: Yes, clearly what created the problem was the adoption of zoning ordinances.</p> | <p>Straub Filip Holland Smith</p> <p><u>NO</u> None</p> |
| <p>4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard</p> | <p>Front setback 6.07(3)</p> |
| <p><i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i></p> | <p><u>YES</u></p> |
| <p>Notes: Filip: There are not a lot of properties with houses on top of this house, houses closely adjacent to this house. In this situation I do believe it is reasonable here Holland: Any massing that would be there has no impact on adjacent neighbors so I also vote yes.</p> | <p>Straub Filip Holland 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>Front setback 6.07(3)</p> |
| <p><i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i></p> | <p><u>YES</u></p> |
| <p>Notes: Straub: Yes, for the reasons Beth typically states. Filip: Yes, for the reason Marty just stated. Smith: Yes, as there's been no evidence to the contrary.</p> | <p>Straub Filip Holland 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>Front setback 6.07(3)</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></p> | <p><u>YES</u></p> |
| <p>Notes: Filip: Yes, as there are not a whole lot of properties that are on top of this particular property, and a lot of other adjacent residential buildings close in the area, so I don't think it would negatively affect adjacent properties.</p> | <p>Straub Filip Holland Smith</p> <p><u>NO</u> None</p> |

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| <p>(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard</p> | <p><i>Front setback 6.07(3)</i></p> |
| <p><i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i></p> | <p><u>YES</u></p> |
| <p>Notes: Straub: Yes, because the Township Ordinance came well after the road and house were situated that distance apart.</p> | <p>Straub Filip Holland Smith</p> <p><u>NO</u> None</p> |

f. Motion by Zoning Board of Appeals:

Motion by Filip to approve the variance for petition (21-ZBA-893), to applicant Chelsea Conger, for the property located at 10660 Island Lake Road, tax id (D-04-34-100-024), for a dimensional variance for a reduced front yard setback, for a requested thirty-point three (30.3) foot front yard setback, under Ordinance Section 6.07(3) as opposed to eighty (80) feet otherwise required. Motion second by Holland.

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

Chairperson Smith noted to the applicant that she should act upon it within the next year as it goes away after that.

7. Public Comment: None.

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

Filip: The decision criteria for adjacent properties has changed, the property value component has been eliminated. DPZ Rohr noted that it was putting the ZBA in a position to make financial decisions.

Smith: He would like to see better plot plans from the applicants, with all the dimensions.

9. Adjournment

Chairperson Smith declared the meeting adjourned at 7:27 p. m.

Respectfully submitted,

 Jay Holland, Secretary

 Janis Miller, Recording Secretary