



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS Tuesday, December 1, 2009

Members present: Bill Gajewski, Vice Chair, Mary Adams, Planning Commission Representative, and Mary Herda-Sprawka.

Members Absent: Steve Burch, Chair, Pat Kelly, Secretary

Also Present: Patrick Sloan, Director of Planning and Zoning (DPZ)

I. **Call to Order:** The meeting was called to order by Vice-Chair Gajewski at 7:10 p.m. Gajewski stated that, with two of the five Board members absent, it would be more difficult to approve a variance request as three-of-three, rather than three-of-five votes would be required. Gajewski indicated the meeting would go forward but that applicants would be given a choice to have action on their applications deferred.

II. **Pledge of Allegiance:**

III. **Approval of Agenda:** DPZ Sloan requested an amendment to the agenda to remove consideration of the Lane's application. He stated that he had received an email from the Lanes requesting that action on their application be deferred until the next meeting due to the fact that a full Board would not be present.

Motion by Herda-Sprawka; **support** by Adams to approve the agenda as amended to remove action item 1 (Lane). **Motion carried by voice vote.**

IV. **Approval of Meeting Minutes:**

Motion by Herda-Sprawka; **support** by Adams to defer approval of the November 3, 2009 meeting minutes until the next meeting. **Motion carried by voice vote.**

V. **Public Comment- Non Agenda Items:** None

VI. **Action Items:**

Action Item Number	1
Appeal Number:	09-ZBA-719
Property Tax ID:	04-02-403-025
Applicant Name(s):	Robert & Kathleen Lane
Property Address:	9558 Winston Drive

Purpose of request: To allow construction of an attached, uncovered deck on the northeast (water) side of the existing single-family home and a 4-foot fence along the southwest and southeast sides of the property. Both the deck and fence were constructed without a Zoning Permit or variances.

(The Lane request was presented at the November 3, 2009 ZBA meeting. The ZBA heard a summary of background information and statement of facts from DPZ Sloan, oral statements from the applicant and public comment. The ZBA deferred action, with the applicant's consent, to the December 1, 2009 meeting due to the late hour.)

This item was removed from the agenda - see Item III.

Action Item Number	2
Appeal Number:	09-ZBA-716
Property Tax ID:	04-18-432-006 & 04-18-431-009
Applicant Name(s):	Raymond & Monica Howe
Property Address:	13796 Rustic Drive

Purpose of request: The purpose of this variance request is to add a new basement and waterside walk-out under the existing home, a new roadside entry to the house, and an extension of the house's waterside deck. The applicants also propose to construct a new garage on the vacant parcel (i.e., parcel 04-18-431-009). The existing home and some proposed changes are within the required front yard setbacks (roadside and waterside) and side yard setback. The proposed garage is within both front yard setbacks (both roadside). This variance application request also includes recognition of existing nonconformities (lot area and lot width).

(The Howe request was presented at the October 3, 2009 ZBA meeting. The ZBA heard oral statements from the applicant and oral and written public comment. The ZBA deferred action pending a review and opinion by the township attorney, with concurrence of DPZ Sloan, as to the setback measurements from Rustic Drive to the house and shed and to also allow the applicant to submit amended plans showing the new proposed location of the garage.)

Gajewski stated that he would give the applicant the opportunity to request that the ZBA table the application to the next meeting to increase the chance of a successful outcome for the applicant. Mr. Howe requested additional guidance from the ZBA. Gajewski reiterated that three positive votes would be needed for approval and suggested that Mr. Howe consider whether or not a month's delay would be detrimental to his project. DPZ Sloan stated that the major issue from the October meeting was settled with the township attorney's opinion concerning setbacks from Rustic Drive but that two other issues, the location of the grinder pump in the Park Lawn easement and the location of the shed, are unresolved. Mr. Howe requested that his application be tabled.

Motion by Herda-Sprawka, **support** by Adams to table the Howe request, with the concurrence of the applicant, until the January 5, 2010 meeting. **Motion carried on a voice vote.**

Gajewski invited members of the public to comment on the Howe request.

Deb Ceo, 13702 Aberdeen – Ms. Ceo stated that she had concerns with the relatively large size of the proposed structures versus the small size of the lot, the approval of a two-story garage would set a precedent that could impact lake views and the approval of plans that included a structure (a shed) that is located on Parklawn Beach Association property.

Bob Riemenschneider, the Howe's builder, commented that the size of the garage was driven solely by the 15 foot grade of Rustic Drive and that the garage would be effectively "buried" in additional height was not added. In response to a question by Herda-Sprawka, Mr.

Riemenschneider stated that the peak of the garage roof was designed to be 8' 10" above grade from Bramble Brae.

Action Item Number	3
Appeal Number:	09-ZBA-721
Property Tax ID:	04-14-400-014
Applicant Name(s):	Peter & Karen Kempf (applicants)/Carol Kempf (owner)
Property Address:	9763 N. Territorial Rd.

Purpose of request: The purpose of this variance request is to move the driveway easement from the east side of the lot to the west side of the lot. This will create a nonconforming front yard setback of less than 50 feet from the west side of the existing home at 9763 N. Territorial Rd. to the east side of the proposed easement line.

Gajewski stated that names of persons noticed is on file and available at the township hall.

Gajewski invited comment from the public, there was no public comment.

Gajewski stated that he would give the applicant the opportunity to request that the ZBA table the application to the January 5, 2010 meeting to increase the chance of a successful outcome for the applicant. Mr. Kempf indicated they would like to proceed.

DPZ Sloan read into the record the background information and statement of facts portion of a draft resolution for the Kempf request, noting that the ZBA would have to complete the "Standards of Review" portion of the resolution:

A. Property Location: 9763 North Territorial Road (parcel 04-14-400-014), which is located on the south side of the road. The parcel is located in the RR – Rural Residential zoning district.

B. Proposed Work: To do the following:

1. Construct a Shared Driveway by:
 - a. Relocating the driveway easement from the east side of the site to the west side of the site in the area where the existing driveway is located.
 - b. Improving the existing driveway in accordance with the Shared Driveway specifications of the Dexter Township ordinances
2. Divide parcel 04-14-400-014 into 2 parcels in accordance with the Land Division specifications of the Dexter Township ordinances. These 2 parcels, in addition to the existing house on parcel 04-14-400-016 (9777 N. Territorial Rd.), would all access North Territorial Road via the proposed Shared Driveway.

C. Background Information and Statement of Facts:

1. On March 20, 1979, Richard & Carol Kempf (owner of parcel 04-14-400-014) filed a variance application to place a 20-foot easement along the west side of the site in the area where the existing driveway was – and still is – located. The intent of the applicant was to build a second dwelling on an existing nonconforming lot (parcel 04-14-400-016) that was landlocked and allow both parcels to share the 20-foot easement. Because Dexter Township did not have shared driveway standards at the time, a Private Road was required with a minimum easement width of 66 feet. The applicant could not have an easement width of 66 feet along the west side of the parcel because the easement would have encroached into his existing home on the parcel (9763 N. Territorial Rd.).

2. On May 29, 1979, the ZBA denied Richard Kempf's variance request because future splits would require approval of a Private Road with an easement width of 66 feet. However, the ZBA did approve a 66-foot wide easement along the east side of the site to parcel -016 and a lowered lot width of parcel -014 from 120 feet to 54 feet as a result.
3. On August 6, 1979 Richard & Carol Kempf transferred parcel -016 (9777 N. Territorial Rd.) to Peter & Karen Kempf.
4. Some time in or after 1979, a house was constructed on parcel -016 and occupied by Peter & Karen Kempf. This house did – and still does – access N. Territorial Rd. via the same driveway along the west side of the site that existed in 1979. There is nothing in the record that demonstrates that the 66-foot wide easement required by the ZBA along the east side of the site was ever recorded. There is also nothing in the record that demonstrates that Dexter Township prohibited construction of a house on parcel -016 or parcel -016's use of the existing driveway along the west side of the site.
5. On July 27, 2009 and October 16, 2009, Dan Kempf (son of Carol Kempf) met with Patrick Sloan, Director of Planning & Zoning, at the Township Hall to discuss the upcoming variance request.
6. On October 23, 2009, Peter & Karen Kempf submitted a variance application to Dexter Township. The application contained the following materials:
 - a. A signed application from for Zoning Board of Appeals case #09-ZBA-721. The application includes the following variance requests:
 - i. Section 12.01(E)(1) – To recognize that the existing lot area of parcel 04-14-400-016 is 1.14 acres, which is less than the minimum required lot area of 2 acres in the RR zoning district. No changes are proposed.
 - ii. Section 12.01(E)(2) – To recognize that the existing lot width of parcel 04-14-400-014 is 127.89 feet, which is less than the minimum required lot width of 150 feet in the RR zoning district. No changes are proposed.
 - iii. Section 18.23(A) – To allow the front yard setback distance of the existing house on parcel -014 (9763 N. Territorial Rd.) to be 43.3 feet to the proposed easement along the west side of the parcel. The minimum required front yard setback is 50 feet.
 - iv. Section 18.18(G) – To allow the existing barn on parcel 04-14-400-014 to be the only structure on the proposed Land Division on the south side of the parcel (i.e., "Parcel C" on the applicant's plan). The Zoning Ordinance does not permit the establishment of an accessory structure on a lot prior to the establishment of a principal structure. "Parcel C" is proposed to be vacant with the exception of the existing barn.
 - b. A signed ZBA Procedures Checklist.
 - c. A survey of the subject properties.
 - d. A letter from the applicants describing the variance application request.
 - e. A copy of Carol Kempf's Durable Power of Attorney form, appointing her sons (Peter and Dan Kempf) to act jointly as her attorneys-in-fact and agents for her and in her name, place, and stead.
7. Subsequent to receipt of the completed application, a public hearing was scheduled for 7:00 p.m. on Tuesday, December 1, 2009 at Dexter Township Hall.
8. On November 20, 2009, Mr. Sloan wrote a report to the ZBA describing the applicant's request. Included with this report were:
 - a. A Variance Request Preliminary Checklist.
 - b. Lot coverage calculation forms for parcels -014 and -016.

9. On November 12, 2009 a notice of the public hearing was published in the Dexter Leader and Chelsea Standard.
10. On November 16, 2009 notices of the public hearing were mailed to all neighbors within 300 feet of the property line of parcel -014.
11. At a regular meeting on Tuesday, December 1, 2009, the ZBA held a public hearing on application 09-ZBA-721. The content of the hearing and other discussion are in the meeting minutes.

Discussion was held regarding the property and its intended use. The proposed land division would create a nonconformity because the pole barn (an accessory structure) would be the only established building on the otherwise vacant six acre parcel. The Zoning Ordinance requires that a principal building be established prior to the establishment of an accessory structure. There was discussion regarding what conditions, if any, the ZBA could put on the use of the pole barn as a condition of approval.

Motion by Herda-Sprawka, **support** by Adams to table the Kempf request until the January 5, 2010 meeting to allow time to obtain an opinion from the Township Attorney regarding conditions of approval with respect to the pole barn if the requested variances are approved.

Motion carried on a voice vote.

Action Item Number	4
Appeal Number:	09-ZBA-722
Property Tax ID:	04-01-108-040 & 04-01-180-010
Applicant Name(s):	Howard & Pamela Joll (owners and applicants)
Property Address:	8596 (parcel -040) & 8597 (parcel -010) Portage Lake Blvd.

Purpose of request: The purpose of this variance request is for the owners of the property at 8596 Portage Lake Blvd. (parcel 04-01-108-040, owned by Howard & Pamela Joll) to transfer the property at 8597 Portage Lake Blvd. (parcel 04-01-180-010), which is a contiguous parcel. According to the Zoning Ordinance, both parcels are considered to be an undivided lot because they were both in single ownership and did not meet the minimum lot size of 1 acre. Parcel -010 was previously transferred from the owners of parcel -040 without a variance.

Action Item Number	5
Appeal Number:	09-ZBA-723
Property Tax ID:	04-01-108-040 & 04-01-180-053
Applicant Name(s):	Angel Mae Watts & George Speal (owners and applicants)
Property Address:	8596 (parcel -040) & no address (parcel -053) Portage Lake Blvd.

Purpose of request: The purpose of this variance request is for the owners of the property at 8596 Portage Lake Blvd. (parcel 04-01-108-040, owned by Howard & Pamela Joll) to transfer parcel 04-01-180-053 (no address), which is a contiguous parcel. According to the Zoning Ordinance, both parcels are considered to be an undivided lot because they were both in single ownership and did not meet the minimum lot size of 1 acre. Parcel -053 was previously transferred from the owners of parcel -040 without a variance.

The ZBA did not have a copy of Sloan's resolution or report. Therefore, this request should be tabled until the January 5, 2010 meeting. Mike McCormick, representative of the Joll's, supported deferring this request. Joe Phillips, representative of Andrew & Lisa DeLong, neighbors and purchasers of 8597 Portage Lake Blvd., also supported deferring this request. The DeLong's were happy to wait until the January 5, 2010 meeting to proceed with the variance applications. A motion was made by Herda Sprawka, supported by Adams, to table this request until the January 5, 2010 meeting. Carried 3-0

Approval of Meeting Minutes (*Moved from agenda item IV*):

Minutes from the October 6, 2009 meeting were distributed and reviewed by the ZBA.

Motion by Adams, **support** by Herda-Sprawka to approve minutes of the October 6, 2009 ZBA meeting as distributed. **Motion carried on a voice vote.**

VII. Public Comment Agenda Items - None

VIII. Concerns of Board Members, Zoning Administrator, Recording Secretary - None

IX. Adjournment:

Motion by Herda-Sprawka, **support** by Adams to adjourn the meeting. **Motion carried on a voice vote.**

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

DeNette Bolyard,
Recording Secretary

Mary Adams,
Acting ZBA Secretary