



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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DON DARNELL, *ALT.*
MARTY STRAUB, *ALT.*

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING MINUTES OF THE ZONING BOARD OF APPEALS

Tuesday, June 5, 2018

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Jay Holland, Jim Drolett, and Bill Gajewski. Absent: None.

Also present: Zach Michels, Director of Planning and Zoning (DPZ), Janis Miller, Recording Secretary, and members of the public.

- 1. Call to Order:** The meeting was called to order by Chairperson Smith at 6:00 p.m.
- 2. Pledge of Allegiance:** Chairperson Smith led the Pledge of Allegiance to the Flag.
- 3. Approval of Agenda:**
Moved by Ehman, *seconded* by Holland, to move Action Item #2: (18-ZBA-841-ABCD) Furey, to the last Action Item. **Motion carried.**

Moved by Holland, *seconded* by Phillip, to approve the agenda as amended. **Motion carried.**
- 4. Approval of Minutes:**
Moved by Ehman, *seconded* by Phillip, to approve the minutes of the May 1, 2018 meeting, as presented. **Motion carried.**
- 5. Public Comment (Non-agenda Items):**
Donald Bieske, 9586 Winston, Pinckney, MI
Gave handout to each Zoning Board of Appeals member. No action by ZBA.
- 6. Public Hearing Procedure Review:**
DPZ Michels reviewed the change to agenda procedures. *Conflict of Interest/Ex-parte Contact Review* was added before each case presentation/review.

7. Action Items:

Item #1

a. Introduction of the case:

a	Petition Number:	(18-ZBA-838ABC) Fellin
b	Applicant(s):	Christopher & Mary Fellin
c	Project Description:	New, single-family house, covered porch, deck A) Reduced rear-yard setback of twenty-five (25) feet rather than the thirty (30) feet required;
d	Petition Description:	B) Increased lot coverage of thirty-three point six (33.6) percent rather than the twenty-five (25) percent allowed; and C) Reduced front-yard (street) setback of twenty (20) feet rather than the twenty-five (25) feet required.
e	Property Location:	9365 Lakeview (D-04-06-287-004)

b. Conflict of Interest/Ex-parte Contact Review: None.

c. Staff Presentation and Zoning Board of Appeals Member Questions:

DPZ Michels summarized:

- A) This request was postponed from last month.
- B) The house that is currently on the property will be demolished.
- C) The dimensions for the rear-yard setback are for the deck with the house set back further.

Discussion: The elevation of the deck; distance of rear wall [from lot line]; finished house floor elevation; location of retaining walls.

d. Petitioner Presentation and Zoning Board of Appeals Member Questions:

Chris and Mary Fellin, homeowners, and Tim Heim, builder:

- A) The deck will be ten (10) feet deep.
- B) The driveway entry is at road level ascending up to house.
- C) Finished floor of the main level is approximately ten (10) feet above the lower-level garage.
- D) Approval of plans secured from the Glenbrook Beach Association.
- E) There is no walkout on the lakeside of the house.

Discussion: Neighbors awareness of the eight (8) foot retaining wall; age of the cabin being demolished; blue pipe in northeast corner; vision over retaining wall when backing out of driveway; possible storm water management.

e. Public Hearing (no public participation on agenda item after public hearing is closed):

Open Hearing: 6:22 pm

Staff received a letter from DTE. Signatures of neighbors in the applicant materials.

Public comments:

Richard Eyster, 9355 Lakeview Drive, Pinckney, MI

Support the new house as it enhances the neighborhood.

Don Riegger, 9265 Lakeview Drive, Pinckney, MI

This will not be the largest home in the association. The propose house is Pleasing and cottage like, with dormers and a roofline that doesn't adversely impact storm water runoff.

Board discussion of the need for DTE involvement is zoning appeals.

Jo Rumsey, 7842 Stonehedge Valley Drive, Gregory, MI

Asked to not consider the DTE letter in light of the fact that it's a new process for which DTE did not have full scope of the project.

Close Hearing: 6:30 pm

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

Discussion: Original legal nonconforming front yard has been moved back eleven (11) feet; the new house will be an improvement to the neighborhood.

(1) Practical Difficulty 4.30(C)(1) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
The strict application of the terms of this Ordinance would constitute a practical difficulty.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Smith – Clearly this is a small lot, and it's not easy to fit this residence on the lot.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(2) Physical Conditions 4.30(C)(2) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
The practical difficulty is due to some physical condition peculiar to the property involved.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Drolett – The slope of the lot, both the front and the back, would make it difficult to put any reasonable size house on the lot without a variance. Filip – The size of the lot is particularly small and the sloping nature of the lot, both the front yard and the rear yard, there's quite a lot it to contend with.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(3) Self-Created 4.30(C)(3) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
The practical difficulty is not self-created.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Filip – There's no evidence otherwise.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(4) Reasonable Amount Necessary 4.30(C)(4) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
The variance is a reasonable amount necessary to mitigate the practical difficulty.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Holland – They’ve done a fine job of maintaining the character of the neighborhood and updating it at the same time. Smith – The Chairperson agrees they have done an excellent job.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(5) Public Health, Safety, and Welfare 4.30(C)(5) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
Approval of the variance will not be injurious to the public health, safety, and welfare.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Filip – With regard to the front yard, the ability to park a car safely is an improvement. The retaining wall, utilizing new materials, and rebuilding this home are all improvements to the health, safety, and welfare not only to their property, but also to the properties surrounding them.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect 4.30(C)(6) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Holland – Not adversely. Ehman – Removing substantially. Smith – I think it’s a great improvement.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance 4.30(C)(7) Does the requested variance meet the following standard:	A	B	C
	18.23(A) Front-yard	12.02(E)(4) Lot Coverage	12.02(E)(4) Rear-yard
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Filip – Yes, for all the reasons stated above, and there is no evidence otherwise.	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

g. Action on Petition – Motion(s) by the Zoning Board of Appeals:

Moved by Filip, seconded by Holland, to approve the three variances for petition (18-ZBA-838ABC) Christopher and Mary Fellin, property located at 9365 Lakeview, property id (D-04-06-287-004), for: A) Reduced rear-yard setback of twenty-five (25) feet rather than the thirty (30) feet required, B) Increased lot coverage of thirty-three point six (33.6) percent rather than the twenty five (25) percent allowed, and C) Reduced front-yard (street) setback of twenty (20)

feet rather than the twenty-five (25) feet required; recognizing the nonconformities set forth on page 1-5 of the staff report, in section 1-F.

Discussion of potential conditions; specifically the rear-yard variance is for a deck only, and the rear-yard deck remaining uncovered. Holland is concerned with an uncovered deck being a safety (ice & snow) issue. Drolett noted the plans showed an uncovered deck, with the variance pursuant to the plans presented to this Board, and that should cover it. DPZ Michels stated that if there are no conditions, the staff would say these are the plans you brought, this is what the variance is for, and so the first potential condition of “construction in significant compliance” is already there [uncovered deck].

Moved by Drolett, seconded by Holland, to amend the motion by adding a condition: 1) The house shall be constructed in significant compliance with the plans that were reviewed by the Zoning Board of Appeals. Amendment accepted by Filip.

Motion and amendment roll call vote: Yeas-Drolett, Holland, Ehman, Filip, and Smith: Nays-none: Abstain-none: Absent-none. Motion carried 5-0.

Item #2: Case moved to last Action Item reviewed.

Item #3

a. Introduction of the case:

a	Petition Number:	<u>(18-ZBA-842AB) Mickevicius</u>
b	Applicant(s):	Augustine & Teri Mickevicius
c	Project Description:	New, detached garage
d	Petition Description:	A) <i>Reduced front-yard (street) setback of eighty-four (84) feet rather than the two hundred (200) feet required; and</i> B) <i>Increased accessory building lot coverage of one thousand four hundred forty (1,440) square feet rather than the one thousand (1,000) square feet allowed.</i>
e	Property Location:	7941 Stonehedge Valley (D-04-18-211-003)

b. Conflict of Interest/Ex-parte Contact Review: None.

c. Staff Presentation and Zoning Board of Appeals Member Questions:

DPZ Michels summarized:

- A) Shed will be removed as garage will be built in that space.
- B) The property has two front yards.
- C) Lot coverage for all buildings on a property are limited based on the size of the property and the zoning district in which it is located.
- D) The proposed plans include a two (2) foot overhang.
- E) The property is a nonconforming small lot, smaller than what they could create today.

Discussion: None.

d. Petitioner Presentation and Zoning Board of Appeals Member Questions:

August Mickevicius, homeowner, and Robert Mickevicius, builder:

- A) It is an unusual piece of property, hence the reduced front-yard setback request.

- B) The size of the garage (over 1,000 sq. ft.) includes two foot overhangs to match the architectural design of the existing house and other homes in the subdivision.
- C) He has visited with all the neighbors and they unanimously approve the new garage.

Discussion: Reasons the garage will not be attached to the house; reducing the two foot overhangs to reduce lot coverage; what it is about this property that would allow the ZBA to disregard the Zoning Ordinance for a large building; larger building needed to store a boat with trailer, garden tractor and accessories; exterior of the garage matching the exterior of the house.

e. Public Hearing (no public participation on agenda item after public hearing is closed)

Open Hearing: 7:04 pm

Signatures of neighbors included in the staff report.

Public comments:

Richard Frendt, 7837 Stonehedge Valley Drive, Gregory, MI

Supports the new garage as it is compatible with the neighborhood.

Jo Rumsey, 7842 Stonehedge Valley Drive, Gregory, MI

Supports the structure as they need space to store stuff.

Close Hearing: 7:06 pm

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

Discussion: Neighbor to the north; garage is reasonable size and not seen from the road; Zoning Ordinance limit of one thousand (1,000) square feet is to protect the flavor of the neighborhood as well as the health, safety, and welfare of everyone; potential conditions; problem with establishing the practical difficulty standard; the variance is for the property, not the owner; the need for two foot overhangs; the practical difficulty is due to the inability to attach the garage to the house; and reasonable setback from the road.

(1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Drolett Holland Ehman	<u>YES</u> Drolett Holland Ehman
Notes: Smith – For reasons already enunciated, I’m concerned about the fact that there hasn’t been a showing that there is in fact a practical difficulty on this property.	Filip Smith <u>NO</u> None	<u>NO</u> Filip Smith

(2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman <u>NO</u> Filip Smith
Notes: Drolett – This lot is very hilly, bounded by two roads, with one just an easement that does exist. Filip – Yes, because you have a property bounded by roads on two sides. The no is because of the [large] size of the garage, if reduced to zoning requirements, the property can still be used as a residence. Smith – Yes and no for the same reasons.	<u>NO</u> None	

(3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Smith
Notes: Filip – There’s no practical difficulty in regards to lot coverage. Smith – I don’t see anything this applicant has done to impact practical difficulty, or not.	<u>NO</u> None	<u>NO</u> Filip

(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman <u>NO</u> Filip Smith
Notes: Filip – Regarding lot coverage, I don’t see practical difficulty.	<u>NO</u> None	

(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i>	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Smith – The Chair agrees that it’s not going to hurt anybody.	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Ehman – Yes, without the “substantially”.	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B
	18.18(C)(2)a Front-yard	18.18(D)(1) Coverage
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman
Notes: Smith – For the reasons previously stated.	<u>NO</u> None	<u>NO</u> Filip Smith

g. Action on Petition – Motion(s) by the Zoning Board of Appeals:

Discussion of potential conditions: Ehman suggesting that potential condition #2 be reworded to state “the accessory building exterior shall mimic the residence”. Board members agreed. Ehman suggested that potential condition #3 should state “the screening shall be maintained between the access easement and the accessory building”, as there appears to be adequate screening already in place. Smith questioned the amount of screening necessary to protect the sensibilities of the people going up and down the road. Drolett questioned the need for screening as the accessory building would mimic the house so they would blend together. Holland stated that his approval of the variances was due to the practical difficulty of the applicant to attach the structure to the home, and the size of the lot.

Moved by Filip, seconded by Drolett, to approve the variances for petition (18-ZBA-842AB) Augustine and Teri Mickevicius, located at 7941 Stonehedge Valley Drive, property id (D-04-18-211-003), for A) reduced front-yard (street) setback of eighty-four (84) feet rather than the two hundred (200) feet required for an accessory building; and B) Increased accessory building lot coverage of one thousand four hundred-forty (1,140) square feet rather than the one thousand (1,000) square feet allowed, recognizing the nonconformities set forth on page 3-3 of the staff report, under section 3-F, with the conditions: 1) The accessory building shall be constructed in significant compliance with the plans submitted to the Zoning Board of Appeals, and 2) The accessory building exterior shall mimic the exterior of the residence.

Roll Call Vote: Yeas-Drolett, Holland, Ehman, Filip, and Smith: Nays-none: Abstain-none: Absent- none. Motion carried 5-0.

Item #4

a. Introduction of the case:

a	Petition Number:	(18-ZBA-843AB) Alexius
b	Applicant(s):	Gretchen Alexius & Chris Woodruff
c	Project Description:	New, single-family house, covered porch A) Reduced front-yard (street) setback of fifty-four (54) feet rather than the eighty (80) feet required; and
d	Petition Description:	B) Reduced side-yard setback of two (2) feet rather than the five point five (5.5) feet required.
e	Property Location:	8798 Dexter-Townhall D-04-03-387-005)

b. Conflict of Interest/Ex-parte Contact Review: None.

c. Staff Presentation and Zoning Board of Appeals Member Questions:

DPZ Michels summarized:

- A) The house will be a little taller to make it more livable.
- B) The front-yard setback is determined by the major street Dexter-Townhall.
- C) The intent is to reuse the foundation as it was recently replaced.
- D) The two foot setback if for the fireplace bump-out, which will be natural gas.

Discussion: Chimney two feet from lot line. Comment from DTE. Property is not part of a platted sub-division.

d. Petitioner Presentation and Zoning Board of Appeals Member Questions:

Gretchen Alexius and Chris Woodruff, homeowners:

- A) Purchased the house in 2015. It was legally non-conforming at the time.
- B) House was built in 1935.
- C) The home is structurally unsafe. Would like to rebuild a safe structure, to the current building codes, on the same foundation (which was replaced recently).
- D) The new house would be taller to accommodate proper headroom and proper support for the second floor.
- E) The architecture would remain the same as I want a house like the house I thought I was buying in 2015.

Discussion: Building on the same foundation. Using the fireplace for gas-fired insert. Deck and roof constructed without permits. Height of the deck off the ground. Total height of house to center of roof. Behind house is farmland, wetlands, and Rover pipeline. The house to the south burned down and when rebuilt it was set back significantly on the property.

e. Public Hearing *(no public participation on agenda item after public hearing is closed)*

Open Hearing: 7:48 pm

Letters from neighbors included in the staff report. Letter received from DTE.

No public comments.

Close Hearing: 7:49 pm

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

(1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
The strict application of the terms of this Ordinance would constitute a practical difficulty.	<u>YES</u> Drolett Holland	<u>YES</u> Drolett Holland
Notes: Filip – Due to the size of the lot, its extremely narrow, and the large wetland in the back. Smith – The Chairperson concurs with that analysis.	Ehman Filip Smith <u>NO</u> None	Ehman Filip Smith <u>NO</u> None
(2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
The practical difficulty is due to some physical condition peculiar to the property involved.	<u>YES</u> Drolett Holland	<u>YES</u> Drolett Holland
Notes: Filip – For the reasons previously noted.	Ehman Filip Smith <u>NO</u> None	Ehman Filip Smith <u>NO</u> None
(3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
The practical difficulty is not self-created.	<u>YES</u> Drolett Holland	<u>YES</u> Drolett Holland
Notes: Holland – Rebuilding on the same foundation it becomes very obvious that they are not reaching. Smith – The Chairperson agrees it is certainly not self-created.	Ehman Filip Smith <u>NO</u> None	Ehman Filip Smith <u>NO</u> None
(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
The variance is a reasonable amount necessary to mitigate the practical difficulty.	<u>YES</u> Drolett Holland	<u>YES</u> Drolett Holland
Notes: Holland – They are asking for very minimal adjustments. Smith – I agree that a very minimal amount of variance is being requested.	Ehman Filip Smith <u>NO</u> None	Ehman Filip Smith <u>NO</u> None

(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
Approval of the variance will not be injurious to the public health, safety, and welfare.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Filip – I think it would be an improvement.	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Drolett – It may affect them as it [property values] might go up. Filip – I concur with Jim.	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B
	18.23(A)(1)d Front-yard	12.02(E)(3)b Side-yard
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes:	<u>NO</u> None	<u>NO</u> None

g. Action on Petition – Motion(s) by the Zoning Board of Appeals:

Discussion of potential conditions: Ehman sees no point in a condition that they use the same foundation. Drolett agrees. Three foot setback for fireplace. DPZ Michels said the building code would prohibit anyone building near the property line on the adjacent property. Holland has no problem with an enclosed screened porch if the applicant so chooses.

Moved by Filip, seconded by Holland, to approve the variances for petition (18-ZBA-843AB) Alexis, property located at 8798 Dexter-Townhall, property id (D-04-03-387-005), for: A) reduced front-yard (street) setback of fifty-four (54) feet rather than the eighty (80) feet required, and B) Reduced side-yard setback of two (2) feet rather than the five point five (5.5) feet required, recognizing the nonconformities set forth on page 4-3, section 4-F of the staff report, with the inclusion of the condition: the project shall be completed in substantial compliance with the plans submitted to the Zoning Board of Appeals.

Roll Call Vote: Yeas-Drolett, Holland, Ehman, Filip, and Smith: Nays-none: Abstain-none: Absent- none. Motion carried 5-0.

Item #5

a. Introduction of the case:

a	Petition Number:	(18-ZBA-844ABCDEF) Gaynor
b	Applicant(s):	Gregory & Patricia Gaynor
c	Project Description:	New, single-family house, deck, and enclosed porch
		A) Reduced front-yard (street) setback of sixteen point five (16.5) feet rather than the twenty-five (25) feet required;
		B) Reduced front-yard (street) setback of one point five (1.5) feet rather than the twenty-five (25) feet required;
		C) Reduced rear-yard setback of five (5) feet rather than the thirty (30) feet required;
d	Petition Description:	D) Reduced rear-yard setback of five point seven (5.7) feet rather than the thirty (30) feet required;
		E) Increased lot coverage of forty-six point nine (46.9) percent rather than the twenty-five (25) percent allowed; and
		F) Reduced lot line setback for a driveway of one (1) foot rather than the five (5) feet required.
e	Property Location:	9180 Anne (D-04-03-209-011)

b. Conflict of Interest/Ex-parte Contact Review: None.

c. Staff Presentation and Zoning Board of Appeals Member Questions:

DPZ Michels summarized:

- A) The house on the property burned down last year.
- B) This is a corner lot with two front-yard setbacks, one on Cedar, and one on Anne.
- C) This means it also has two rear-yard setbacks.
- D) The proposed house will include a deck on both sides. The one towards Cedar will be covered.
- E) The driveway will be extended alongside the house.
- F) Note, the setbacks from Cedar and the northern lot line are measured to the steps of the decks.
- G) There will be one foot overhangs.

Discussion: Overhangs as stated in staff report; right-of-way lines of Cedar Street; lot coverage of structure that burned down, and where the original structure was located on the lot; lot coverage of new proposed residence versus lot coverage of old residence; documenting foundations of structures that have burned; and the green stake marking.

d. Petitioner Presentation and Zoning Board of Appeals Member Questions:

Greg and Patricia Gaynor

- A) Bought the house in 1988.
- B) The property is a small corner lot in a platted sub-division.
- B) Property survey was done two years after they bought the property.
- C) The foundation shape (L-shaped) has changed, therefore the new structure (rectangular) covers less of the lot.

Discussion: Plans for area (front on Cedar St.) between lot line and house foundation; parking for more than two cars; parking in easement across the street (Cedar St. to the lake).

(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:	A	B	C	D	E	F
	18.23(A) Front-yard	18.23(A) Front-yard	12.02(E)(3) Rear-yard	12.02(E)(3) Rear-yard	12.02(E)(4) Coverage	20.02(A)(4) Driveway
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith	<u>YES</u> Drolett Holland Ehman Filip Smith
Notes: Holland – I think this is the intention [of the Ordinance].	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None	<u>NO</u> None

DPZ Michels noted there were two additional nonconformities that were not identified in the staff report: 1) The existing driveway is closer to the lot line than allowed, one (1) foot rather than the five (5) feet required, and 2) It's closer to the intersection of Anne and Cedar than allowed, thirty-two (32) feet rather than the fifty (50) feet required.

g. Action on Petition – Motion(s) by the Zoning Board of Appeals

Discussion of potential conditions: Ehman stated that he would like to see the (Cedar Rd. side) porch with a roof to add flare to the façade. Holland prefers a deck with a roof for safety protection from ice & snow. Smith stated he was not in favor of any [staff suggested] potential conditions. Holland noticed the steps were not close to what they are proposing regarding potential condition #1 (staff report page 5-5). Drolett would not like the porch enclosed, roofed with railing would be fine. Holland noted the setback would increase if the front porch were positioned more to the east, in line with the front door.

Moved by Filip, seconded by Drolett, to approve petition (18-ZBA-844ABCDEF) Gaynor, property located at 9180 Anne Street, tax id (D-04-03-209-011), for: A) Reduced front-yard (street) setback of sixteen point five (16.5) feet rather than the twenty-five (25) feet required, from Anne Street, B) Reduced front-yard (street) setback of one point five (1.5) feet rather than the twenty-five (25) feet required, from Cedar Street, C) Reduced rear-yard setback of five (5) feet rather than the thirty (30) feet required, from the eastern lot line, D) Reduced rear-yard setback of five point seven (5.7) feet rather than the thirty (30) feet required, from the norther lot line, E) Increased lot coverage of forty-six point nine (46.9) percent rather than the twenty-five (25) percent allowed, [the proposed house and covered porch combined], and F) Reduced lot line setback for a driveway of one (1) foot rather than the five (5) feet required, recognizing the nonconformities set forth on page 5-4, section 5-F, of the staff report, as well as the additional nonconformities raised by DPZ Michels under ordinance §20.02 where as an existing driveway is closer to the 1) side lot line, and 2) Cedar Street setback than allowed; with the conditions that 1) the deck along Cedar shall only be enclosed with screening, and 2) the lot coverage and setbacks shall be maintained, but reconfiguration of the proposed decks are allowed.

Discussion: Drolett would like clarification in variance “B” that the setback (1.5 feet) is for the steps of the porch not the structure, and variance “D” setback (5.7 feet) is for the rear deck, not for the principal structure.

Roll Call Vote: Yeas-Drolett, Holland, Ehman, Filip, and Smith: Nays-none: Abstain-none: Absent-none. Motion carried 5-0.

8:46 Recess
8:52 Back on record

Item #2: Case moved from #2 to last Action Item reviewed.

a. Introduction of the case:

a	Petition Number:	<u>(18-ZBA-841ABCD) Furey</u>
b	Applicant(s):	Dave Furey
c	Project Description:	Addition for upper level hallway and deck expansion A) Reduced rear-yard setback of seven (7) feet rather than the thirty (30) feet required; B) Reduced waterbody setback of twenty-two (22) feet rather than the fifty (50) feet required;
d	Petition Description:	C) Reduced side-yard setback of one (1) foot rather than the five (5) feet required; and D) Increased lot coverage of forty-one point one (41.1) percent rather than the twenty-five (25) percent allowed.
e	Property Location:	9311 Anne (D-04-03-207-007)

b. Conflict of Interest/Ex-parte Contact Review: None.

c. Staff Presentation and Zoning Board of Appeals Member Questions:

DPZ Michels:

- i. 2006 a deck extension, too close to the water and lot lines, was built without permits;
- ii. 2016 two different groups of variances that were requested, one for the upper level addition, to reconfigure the stairway and allow a hallway access to all the rooms, with the condition that the deck be made legal in order to receive the variances and permits for that. The addition was done on the upstairs but there were no zoning permits issued for the construction. The variances expired after a year.
- iii. This request is a combination of both of those variances, the deck and the addition on the upper level. It does not propose to add any more structure than what is currently there.
- iv. There is a gap between the waterbody and the rear lot line, so there is both rear-yard and waterbody setbacks.
- v. The deck is the closest [to the water] of the structures but the upper level addition also extends into those setbacks.
- vi. The side-yard setback is for the addition.
- vii. The increased lot coverage is for the upper level addition.

Discussion:

Smith: What was constructed was what we granted a variance for in 2016?

DPZ Michels: Correct.

Smith: They didn't do any more than what we granted the variance for in 2016?

DPZ Michels: Correct.

Ehman: As one of the conditions for the variance, we requested that the area under the deck not be enclosed. What did you have in mind when you said that shouldn't be enclosed?

DPZ Michels: Potential condition #6 says that the area below the upper level addition shall remain open? I was trying to capture that small area visible from the street not continue down to the ground.

Drolett: I thought he was to build an enclosure to put in a stairway, from the street level down to the lower level, internally.

DPZ Michels: Page 2-10 of the staff report, the dashed area is the proposed hallway above. That was the addition. The stairway goes up, toward the lake, and that hallway allows you to get back to the rooms that are toward the street.

Holland: Potential condition #2 states a plan of the deck, as prepared by a professional engineer, shall be provided to and reviewed by the building authority, Did you mean to say “and have permits issued, inspections and approvals performed”?

DPZ Michels: I suspect the deck that is there today has a lot of building code deficiencies. The idea is to make sure the thing that’s there is built up to today’s codes.

Drolett: Has there ever been a building inspection of those columns and the addition of those decks?

DPZ Michels: We have not been made aware of that.

Drolett: I checked with Chelsea Area Construction Agency and they have never done an inspection.

Holland: That was a condition we put on in 2016.

Drolett: I have concerns, if you have 10 people on the lower deck and 10 people on the upper deck and the thing collapses, someone would say you [ZBA] let him do it. I really want the thing inspected to see if what’s there is up to code.

Holland: The variance they got in 2006.....

DPZ Michels: The variance was in 2016, it was built in 2006.

Holland: Wasn’t there a discussion about stormwater, that wasn’t taken care of?

DPZ Michels: My understanding is that it has been installed and OHM inspected it. The stormwater management did pass final inspection in April of 2016.

Holland: The pictures I see show open ended corrugated four inch pipe blowing out at grade.

Drolett: It goes down to the lakeside yard.

DPZ Michels: The inspection said there was an underground system with infiltration trench.

Holland: When we looked at this before, they were asking to put a roof over the upper deck. Are we aware there is a ceiling on the underside of that deck that is not permeable? The deck is not permeable.

DPZ Michels: I would have to defer with OHM to see how the calculations were done for the stormwater. I do know at the time it was noted there was corrugated metal on the deck ceiling.

d. Petitioner Presentation and Zoning Board of Appeals Member Questions:

James Singleton, builder, on behalf of the applicant Mr. Furey

Mr. Singleton: Unfortunately Mr. Furey could not attend, although with this time slot [end of Action Items] he might have been able to be here.

Smith: I wonder if the ZBA has the authority to adjourn this until Mr. Furey can be here. I need to know the applicant’s state of mind in reaction to the conditions.

Singleton: I reached out prior to the meeting to make sure it was OK if Mr. Furey could not make it.

Smith: You didn’t talk to the ZBA. You talked to somebody else.

DPZ Michels: He has been authorized as the agent. If there are questions that the applicant’s agent can’t answer, then that’s good grounds for postponing until you can hear directly from the property owner [Mr. Furey].

Smith: I’m interested in knowing the applicant’s state of mind about our conditions, and I don’t think this guy can tell us about the applicant’s state of mind in reaction to our conditions.

Ehman: Why should we spend any time on this unless we get some kind of guarantee from the applicant that he is going to be more cooperative in seeing the administrative necessities of the Township are addressed?

Singleton: Briefly, we did apply for permits and did obtain permits. We also got approval from OHM Advisors as well, for the drainage. I have those documents. The initial error on my part is I did not send Chelsea Area Construction Authority (CACA) the actual zoning permit. What I sent was the actual zoning variance approval document, not the permit. With that document we were issued a building permit [from CACA] for the project. I was not aware it was the wrong document [zoning variance approval] until the project was finished and Zach said we never got the zoning permit. There were inspections at the start of the project. We had all the permits that I was aware of. The stormwater drainage plan was a huge trench right at the lower level. It was inspected and approved. They have the photographs and gave the final approval of the stormwater management. Mr. Furey had every confidence we were going to take care of the project, but unfortunately, it was my error in not providing CACA the actual zoning permit.

Ehman: If you have all these inspection reports, why weren't you able to share them with Mr. Michels?

Singleton: From my understanding, the only inspection report that I had to provide to Mr. Michels is the OHM report. He received that. The other inspections we were inspected by the Chelsea Building Agency [CACA].

Holland: Can you get a final inspection without getting a final zoning inspection? I remember Zach being very clear that you have to come to our office [after approval] and pick up your permit.

Singleton: My point is I went through all the other inspections.

Smith: You have final approval from the Chelsea Area Building Authority?

Singleton: Yes.

DPZ Michels: I will point out that is not legal to use the structure unless you have a final certificate of zoning compliance that is associated with it.

Smith: From his perspective he has a final approval from the Building Authority, and they gave that to you not knowing that you didn't actually have a zoning permit?

Singleton: Yes.

Smith: When did anyone become aware of this problem?

Singleton: Zach sent me an email.

Smith: In your documents from the building authority, do you have an indication from them they did the inspections of the structural items we were concerned about and approved them?

Singleton: No. I shared the document [variance approval], with these notes, with the inspector, and he looked at the deck and issued the building permit.

Smith: You have nothing from them that confirms their approval of those items that we asked to be inspected.

Singleton: No.

Further discussion of inspections and approvals. DPZ Michels summarized the ZBA approved conditions (April 5, 2016) that was stipulated to receive the zoning permit.

Smith: To summarize, we haven't gotten the plans that we specified as a condition of moving forward, and we haven't gotten any zoning permits. The variance has expired and we are faced with deciding whether or not to grant new variances. Given the previous lack of compliance, it's a hard sell with this Board to just rubber stamp what has happened so far.

Ehman: We certainly are not in a position to be punitive, that's not what our job is. The history of Mr. Furey, and this event with his no show tonight, doesn't give me much enthusiasm to move

on this until he is here to give us some assurance that if we do something to accommodate him, the Township is going to get something back in return.

Smith: My suggestion, to the extent of the authority we have to do it, is we adjourn this to the next scheduled hearing date, for Mr. Furey to be here, and before we wrap up for the evening we provide an agreed upon list of things that he will bring with him. We need to see the engineering report that was supposed to be submitted before a zoning permit was granted. That was a condition to getting a zoning permit, which your client was aware of.

Filip: There has been substantial time since the variance was approved. That was the time for appeal. This is a time sensitive issue. I see no indication that Mr. Furey did not agree to any of those conditions, did not appeal those conditions, or make any attempt to get out from under those conditions. Based on Mr. Furey's prior actions, relative to those conditions, asking for those conditions to be met, and tabling this would be reasonable.

Drolett: And be met before we put it back on the agenda. There's no sense in having Mr. Furey here to explain something if we don't have the information to make a decision.

Holland: I'd prefer to just move that the deck be removed and let him appeal it. I look at my notes; where is the zoning permit that was required prior to the 2006 construction stop work order being issued. No building permits were acquired after the final approval. He was reminded, by letter, to pick those up in 2009 and 2011. He failed to do so. In 2016 the zoning variance was granted, but permits were not acquired for the recent construction, and thereby the ZBA conditions were not met. Anything issues he has there is self-created.

Drolett: Through Mr. Singleton, to Mr. Furey, we need those things before we meet and reconsider this. That Mr. Furey provides us with what we requested the first time in 2006.

DPZ Michels: This body needs to decide which building code do you want it to meet?

Holland: Today's building code. The 2015 Building Code.

Smith: We need to get an exhaustive list of what we expect. Then try to figure out, between now and our next meeting date, if it's reasonable he will be able to do those things. The requested engineering drawings we've requested may not be feasible a month from now. If we all agree that the requested items would not likely be here a month from now, maybe we should table it until two months from now.

DPZ Michels: We need *as-built* plans to the 2015 Building Code.

Smith: What I'm looking for is a list of what we expect before we meet again. What I've heard is, we want full compliance with the recorded document. In addition, we would like to see copies of all of the building inspections reports received after the 2016 variance was granted.

8. Public Hearing (*no public participation on agenda item after public hearing is closed*):

Open Hearing: 9:43 pm

Staff received a letter from DTE.

Linda Singer, 9260 Anne Street, Pinckney, MI

Concerned with water runoff from roof running down the hill [street], and the safety of the deck as she has observed overcrowding on said deck.

Jeanette Reese, 9487 Anne Street, Pinckney, MI

Concerned about the safety of the deck.

Judy Mulholland 9223 Anne Street, Pinckney, MI

Concerned that if the property were sold, the new owners would inherit the construction and zoning issues.

Close Hearing: 9:49 pm

Moved by Ehman, seconded by Drolett, to postpone (18-ZBA-841ABCD) Furey until July 3, 2018, to review the information the ZBA has requested, and act on the variance request.

Motion carried 5-0.

9. Public Comment: None.

10. Concerns of Zoning Board of Appeals Members, Director of Planning and Zoning, and Recording Secretary:

DPZ Michels: Our Rules of Procedure says we can handle 5 variance requests at a time, and we did that tonight.

The Planning Commission has been working on their Bylaws so the ZBA needs to refresh theirs also.

The revised Agenda was in line with what our Rules say we should do.

There are three applications for the July meeting.

There is no action required, nor is this body authorized to take action, on the information provided by Mr. Bieske.

Ehman: Zoning Ordinance §4.25 says “the applicant shall include all relevant materials as determined by the Director of Planning and Zoning.” I would like to ask the DPZ that when we get a request for a variance, it shows what is proposed as an overlay on top of what they already have, so that we can see the outline of the present circumstance.

Holland: It would be helpful to see the location of structures on adjacent properties. I would like to swear in the people who are testifying at the public hearing.

11. Adjournment:

Chairperson Smith declared the meeting adjourned at 10:04 p. m.

Respectfully submitted,

Jay Holland, Secretary

Janis Miller, Recording Secretary