



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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RECORDING SECRETARY

REGULAR MEETING MINUTES OF THE ZONING BOARD OF APPEALS

Tuesday, July 3, 2018

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Jay Holland, Jim Drolett, and ~~Bill Gajewski~~ Thomas Ehman. 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 6:04 p.m.

2. **Pledge of Allegiance:** Chairperson Smith led the Pledge of Allegiance to the Flag.

3. **Approval of Agenda:**

Moved by Filip, seconded by Holland, to approve the agenda, as amended.

Motion carried by voice vote.

4. **Approval of Minutes:**

Moved by Drolett, seconded by Filip, to approve the minutes of the June 5, 2018, as amended. Motion carried by voice vote.

5. **Public Comment (Non-agenda Items):** None

6. **Public Hearing Procedure Review:**

DPZ Michels reviewed the Public Hearing procedures.

7. **Action Items:**

Item #1

a. Introduction of the case:

| | |
|------------------------------|--|
| Petition Number: | <u>(18-ZBA-847AB) Jackson</u> |
| Applicant(s): | Mark & Chantel Jackson |
| Project Description: | New single-family house and deck |
| Petition Description: | A) <i>Reduced front yard setback of thirty-one point one (31.1) feet rather than the fifty (50) feet required; &</i> B) <i>Increased lot coverage of twenty-eight point five (28.5) percent rather than the twenty-five (25) percent allowed.</i> |
| Property Location: | 13436 North Lake (D-04-17-200-003) |

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

Holland spoke with homeowner without discussing details of variances.

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

DPZ Michels summarized:

- A) This is currently a single-family home that the applicants wish to demolish and replace with a new house.
- B) The new house would be a 2-story ~~A-frame~~ structure with an uncovered deck extending 8 feet from the front façade towards North Lake Road.
- C) The front yard setback of 31.1 feet is to the edge of the deck, the house will be set back farther from that.
- D) The proposed house would be connected to the existing garage.
- E) Lot coverage includes all the roofed area.

Discussion: Present lot coverage (before demolition); size comparison of old house versus new house; total lot size (10,123 sq. ft); uncovered deck.

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

Mark and Chantel Jackson, applicants and homeowners:

- A) The goal is to remove the existing home that was built in the early 1920s.
- B) We want a home that is more sustainable and farther away from North Lake Road.
- C) A variance was approved last year for Phase 1, the garage, and as the draft Zoning Ordinance has not been approved, we cut two feet off the depth of the garage to free up some square footage to meet the current Zoning Ordinance, knowing the second phase would be building the house.
- D) Currently we are ninety percent complete with the garage and going through final inspections.
- E) The house will be built when least disruptive to our neighbors, Labor Day to Memorial Day.
- F) We are asking for increased lot coverage, as this is a very small lot.
- G) We have maintained the side variance to not encroach upon our neighbors.
- H) The front yard is the lake; the rear yard is a swamp so the variance is to work within that.
- I) We will work with the proper authorities in addressing any storm water management issues.

Discussion: Lot coverage is significantly higher than the neighbors so where is the practical difficulty? This will be a year-round home designed with a bedroom & bathroom on the main floor so they can age in place. The garage is for storage, which adds significantly to the lot coverage. Height of deck from the ground is about two feet with no railings. Finished elevation of house. Storm water runoff. Second story dormer placement and potential egress.

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

Open Hearing: 6:28

Some public came in to review the records, but no letters were received.

Public Comments:

Howard Booth, 13560 North Lake Road, Gregory, MI

The garage looks great. The lot is a limited size. He supports the building of the house.

LuAnn Booth, 13560 North Lake Road, Gregory, MI
Supports the variances requested, as the new home would improve the neighborhood.
Close Hearing: 6:31

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

Discussion: Setbacks. Currently legally nonconforming setbacks. Lake Residential lot coverages impact, looking to livable spaces versus storage (garage) spaces. Landscaping from deck to the road. The 1,500 sq. ft. house is not unreasonable large, and it will be set back further from the road than the current house. Practical difficulty with regard to lot coverage as this is a small lot and the house is not extraordinarily large. The front-yard setback is to the deck, with the house being farther back.

| (1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard: | A | B |
|--|---|---|
| | 18.23(A)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Smith – This is not an unduly large home, the lot is pretty small, and the strict application would be a practical difficulty. | <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 |
|---|---|---|
| | 18.23(A)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>The practical difficulty is due to some physical condition peculiar to the property involved.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Drolett – This is a very small lot, and they are moving it back [from the road]. Smith – I'm pleased they are moving the house back farther from the road. | <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 |
|--|---|---|
| | 18.23(A)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>The practical difficulty is not self-created.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Filip – They did not create the size of the lot. | <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 |
|--|--|--|
| | 18.23(A)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Filip – The size of the home they are proposing is not outrageously large and very reasonable. Smith – I agree with the previous comment. | <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 |
|---|--|--|
| | 18.23(A)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Filip – It will actually improve the health, safety, and welfare by moving the home back from the road. | <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)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Smith – I think, as we have heard, it's going to improve the neighborhood. Great plan. | <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)(2)d Front-yard | 12.02(E)(4)b Lot Coverage |
| <i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i> | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith |
| Notes: Filip – I don't see any evidence to the contrary. | <u>NO</u> None | <u>NO</u> None |

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

Moved by Ehman, seconded by Drolett, to approve (18-ZBA-847AB) with the condition that the existing garages remain so we know the house is going to be the rest of the lot coverage.

Moved by Filip, seconded by Holland, to amend the motion by recognizing the nonconformities set forth on page 1-6, Section 1-F of the staff report, and the motion is directed to both A) Reduced front yard setback of thirty-one point one (31.1) feet rather than the fifty (50) feet required, and B) Increased lot coverage of twenty-eight point five (28.5) percent rather than the twenty-five (25) percent required in that district.

Vote on amendment: **Motion carried by voice vote**

Motion as amended summarized by DPZ Michels: To approve (18-ZBA-847AB) Jackson [13436 North Lake, (D-04-17-200-003)], for A) Reduced front yard setback of thirty-one point one (31.1) feet rather than the fifty (50) feet required, and B) Increased lot coverage of twenty-eight point five (28.5) percent rather than the twenty-five (25) percent allowed; with the condition that the existing garage is to remain and recognizing the nonconformities for the driveway setback and lot area.

Roll Call Vote on amended motion: Yeas – Drolett, Holland, Filip, Ehman, Smith: Nays - none: Abstain - none: Absent – none. **Motion carried 5-0.**

Item #2:

a. Introduction of the case:

| | |
|------------------------------|---|
| Petition Number: | (18-ZBA-845ABCD) Clark |
| Applicant(s): | Curtis & Andrea Clark, Tim Heim (<i>agent</i>) |
| Project Description: | New single-family house, deck, and associated accessory structures |
| Petition Description: | A) Reduced front-yard setback of minus one (-1) feet rather than the twenty-five (25) feet required; B) Reduced side-yard setback of six point seven (6.7) feet rather than the eight point three (8.3) feet required; C) Reduced side-yard setback of seven point two (7.2) feet rather than the eight point three (8.3) feet required; & D) Increased lot coverage of twenty-nine point eight (29.8) percent rather than the twenty-five (25) percent allowed. |
| Property Location: | 13744 Rustic (D- 04-18-432-001) |

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

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

DPZ Michels summarized:

- A) A previous house was demolished in 2017, and the applicants wish to rebuild.
- B) The new house will appear one story from the street, with a loft above and a Partially-finished basement.
- C) There will be an attached side-loading garage on the front and uncovered deck in the back.
- D) Side-yard setbacks in Lakes Residential (LR) Districts are determined by the height of the building. The distance is measured from the side lot lines to the

- edge of the overhangs.
- E) Materials have been received for a zoning permit, a house without the garage.
 - F) This is a platted subdivision.
 - G) There is an access easement for Rustic Drive across the southern twenty feet of the property, although the travelled way for Rustic is located outside of this access easement.
 - H) As the easement is part of the plat the Township cannot vacate or amend it, it has to go through court action. This line is where the minus one (-1) variance is requested for the reduced front-yard setback.
 - I) There is a spot in the Zoning Ordinance that says the Planning Commission can approve building things into access easements or rights-of-way, with certain conditions.

Discussion: ZBA has no authority to grant a minus one (-1) variance; the Planning Commission cannot approve anything that interferes with the stated use of the easement; Zoning Ordinance §18.04: Encroachments into Easements & Rights-of-Way; location, size, and lot coverage of demolished home; public walkway between lots has been vacated and the land split between the two parcels; the nine (9) foot deck, on the lake front side, is right at the fifty (50) foot setback;

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

Tim Heim, Designer & Project Manager for the Clark's

- A) He has been working with the family two years to design this home.
- B) Platted measurements in the application were not correct as when he set stakes for the project he discovered it was actually 3 feet from the easement.
- C) Two feet was removed from one direction of the garage and three feet from another direction to get it to the presented dimensions.
- D) The family plans to live here six months of the year, leaving a vehicle, boat, and lawnmower in the garage.
- E) Side-entry garage designed for safety, clear site lines to/from Rustic Drive.
- F) There is a steep slope from Rustic down to the lake.
- G) The deck will be ten feet above grade, with railings all the way around.
- H) Second story in original plan was removed to meet lot coverage.

Discussion: Verifying total lot size, excluding the easements; why the house needs to be so large; future finished space in the basement; bathroom will be in basement immediately; setbacks match the neighboring homes; twenty-four foot setback (to garage) from driven surface of the road; attic in garage for light storage; property measuring problems created by the platted 20-foot wide platted access easement intended for Rustic.

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

Open Hearing: 7:09

Letters from neighbors in the ZBA packets.

Public Comment:

Jeff Ziel, 13860 Rustic Drive, Gregory, MI

Shared that Rustic Drive is an easement that everyone in the platted subdivision owns. His concern is that the size of the Clark's house is affected because the easement is not factored into lot area.

Close Hearing: 7:17

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

Discussion: Distance between proposed house and neighbors houses; lot coverage would be highest in the neighborhood; DPZ clarified that road right-of way and access easements have not been included in lot coverage since the 1973 Zoning Ordinance; house designed too large to meet ordinance requirements; practical difficulty in regards to lot coverage; this lot is narrowly shaped; storage in the garage for Lakes Residential (LR) District; prescriptive easements of Rustic Drive; how much of the lot coverage is eaves/overhangs.

| (1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard: | A | B | C | D |
|---|---|---|---|--|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot Coverage |
| The strict application of the terms of this Ordinance would constitute a practical difficulty. | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman |
| Notes: Filip – They're not encroaching into the (plated) easement anymore. The lot is relatively narrow so the side-yard setbacks are reasonable. As for parking two vehicles, the side entry garage adds to the practical difficulty. | <u>NO</u> None | <u>NO</u> None | <u>NO</u> None | <u>NO</u> Smith |

| (2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard: | A | B | C | D |
|---|---|---|---|--|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot Coverage |
| The practical difficulty is due to some physical condition peculiar to the property involved. | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman |
| Notes: Drolett – It's a narrow lot, and the fact that it has extreme topography with an almost thirty-foot drop from the road to the lake. | <u>NO</u> None | <u>NO</u> None | <u>NO</u> None | <u>NO</u> Smith |

| (3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard: | A | B | C | D |
|--|---|---|---|---|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot Coverage |
| The practical difficulty is not self-created. | <u>YES</u> | <u>YES</u> | <u>YES</u> | <u>YES</u> |
| Notes: Smith – Clearly not the applicants fault as this lot is small. | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith |
| | <u>NO</u> None | <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 | D |
|---|---|---|---|--------------------------------------|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot Coverage |
| The variance is a reasonable amount necessary to mitigate the practical difficulty. | <u>YES</u> | <u>YES</u> | <u>YES</u> | <u>YES</u> |
| Notes: Drolett – I don't think the house is that big for living conditions. | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman |
| | <u>NO</u> None | <u>NO</u> None | <u>NO</u> None | <u>NO</u> Smith |

| (5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard: | A | B | C | D |
|--|---|---|---|---|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot Coverage |
| Approval of the variance will not be injurious to the public health, safety, and welfare. | <u>YES</u> | <u>YES</u> | <u>YES</u> | <u>YES</u> |
| Notes: Smith – Clearly not a public health, safety, and welfare issue at all as it's a nice-looking house. | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith |
| | <u>NO</u> None | <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 | D |
|--|---|---|---|---|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot 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> | <u>YES</u> | <u>YES</u> | <u>YES</u> |
| Notes: Drolett – It will improve the area. Holland – Agreed. | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith | Drolett Holland Filip Ehman Smith |
| | <u>NO</u> None | <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 | D |
|---|---|---|---|--|
| | 18.23(A) Front-yard | 12.02(E)(3)b Side-yard | 12.02(E)(3)b Side-yard | 12.04(E)(4) Lot Coverage |
| Approval of the variance is consistent with the intent and purpose of this Ordinance. | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman Smith | <u>YES</u> Drolett Holland Filip Ehman |
| Notes: Drolett – I believe the house is designed to bring it into harmony with the rest of the houses in the neighborhood. | <u>NO</u> None | <u>NO</u> None | <u>NO</u> None | <u>NO</u> Smith |

g. Action on Petition: Motion(s) by the Zoning Board of Appeals:
Moved by Filip, seconded by Drolett, to approve (18-ZBA-845ABCD) Clark, 13744 Rustic, tax id (D-04-18-432-001), for A) Reduced front-yard setback of three (3) feet rather than the twenty-five (25) feet required, (B) Reduced side-yard setback of six point seven (6.7) feet rather than the eight point three (8.3) feet required, C) Reduced side-yard setback of seven point two (7.2) feet rather than the eight point three (8.3) feet required, and D) Increased lot coverage of twenty-nine point eight (29.8) percent rather than the twenty-five (25) percent allowed; recognizing the nonconformities on page 2-4, Section 2-F of the staff report; with the condition the project shall be constructed in substantial compliance with the plans presented to the Zoning Board of Appeals.

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

Item #3:

(18-ZBA-841ABCD) Furey

Dave Furey, owner and James Singleton, FabForm Design Build

Additional information from the applicant, requested at the June 5, 2018, Zoning Board of Appeals meeting, has been passed out.

Discussion: List of items (documents) required in the DPZ Declaration; clarity needed on the 2006 deck addition; concerned with structural elements of deck constructed without permits; the need for a sealed “as-built” drawing from 2006 addition; Chelsea Area Construction Agency (CACA) approval of the deck; expiration of 2016 Zoning permit; stop work order on 2006 deck construction; Zoning Board of Appeals determination of what documents, permits, and inspections are needed to make the project whole.

Moved by Ehman to request the Director of Planning and Zoning go over the minutes of the June 5th meeting and minutes from tonight’s meeting, to determine what documents the Zoning Board of Appeals is looking for to reach a conclusion; giving a list of the documents to the Appellant, and when he receives the necessary information to comply with what we are requesting, he places it on the agenda with Mr. Furey’s attendance at that meeting. Motion dies for lack of second.

Discussion: DPZ review 2016 variance; conditions with 2016 variance approval; deck inspection to make sure it holds the loads he is putting on it; new OHM inspection of deck addition to 2015 Building Code; not a legal structure until zoning permit issued and that would have to be to today's code; inspections at applicant's expense; deck rails added to deck extension; existing "as built" drawings;

***Moved** by Drolett, seconded by Filip, to postpone (18-ZBA-841ABCD) Furey, until OHM has had an opportunity to inspect the deck (at the appellant's expense), as constructed since 2006, for structural integrity and make a report back to the Zoning Board of Appeals, at which time we will put this matter back on the agenda.*

Motion carried by voice vote.

8. **Public Comment** (*Non-agenda Items*): None.
9. **Concerns of Zoning Board of Appeals Members, Director of Planning and Zoning, and Recording Secretary:**

Recording Secretary: Clarification of what detail ZBA needs in the minutes.

Smith: The necessity of the agenda item of reading the Public Comment procedure before each meeting.

10. Adjournment:

Chairperson Smith declared the meeting adjourned at 8:47 p. m.

Respectfully submitted,

Jay Holland, Secretary

Janis Miller, Recording Secretary