



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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BROOK SMITH
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BETH FILIP
VICE CHAIRPERSON
JAY HOLLAND
SECRETARY
JAMES DROLETT
TOM EHMAN
DON DARNELL (ALTERNATE)
MARTY STRAUB (ALTERNATE)
JANIS MILLER
RECORDING SECRETARY

Regular Meeting Minutes of the Zoning Board of Appeals October 2, 2018 6:00 pm

Members present: Vice-Chairperson Beth Filip, Jim Drolett, Tom Ehman and alternate Don Darnell. Absent: Brook Smith, with notice and, Jay Holland, with notice.

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

1. **Call to Order:** The meeting was called to order by Vice-Chairperson Beth Filip.
2. **Pledge of Allegiance:** Vice-Chairperson Filip led the Pledge of Allegiance to the Flag.
3. **Approval of Agenda:**
Motion by Mr. Drolett to approve the agenda as amended. Motion second by Mr. Ehman. Motion carried by voice vote.
4. **Approval of Minutes-** September 4, 2018
Motion by Mr. Drolett to move review of the minutes to the end of the agenda, making it item 8a. Motion second by Mr. Ehman. Motion carried by voice vote.
5. **Public Comment (Non-agenda Items)** None.
6. **Public Hearing Procedure Review:** DPZ Michels reviewed the Public Hearing procedures, as noted at the end of the agenda.
7. **Action Items**

Item #1

a. Introduction of the case

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| a | Petition Number: | (18-ZBA-854AB) Ziel |
| b | Applicant(s): | Jeffrey Ziel and Barbara Ziel |
| c | Project Description: | Attached garage addition A) Reduced front-yard (street) setback of minus six (-6) feet rather than the twenty-five (25) feet required. Reduced setback is from a platted access easement to the south; and |
| d | Petition Description: | B) Increased lot coverage of twenty-six point one (26.1) percent rather than the twenty-five (25) percent allowed. Increased lot coverage is for all of the roof surfaces. |
| e | Property Location: | 13806 Rustic (D-04-18-432-007) |

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

c. Staff Presentation:

DPZ Michels summarized the staff report for (18-ZBA-854AB) Ziel.

Note: Variance (B) cannot be addressed tonight as the lot coverage measurement is higher than was noticed to public and neighbors.

d. Petitioner Presentation:

Jeffrey Ziel, homeowner

- A) The platted easement (-6 feet) is impossible to use.
- B) Somewhere around 1930 the retaining walls were built and the road was moved.
- C) Traffic [on the road] would be fourteen (14) feet from the face of the garage.
- D) The platted easement measurements are not precise so they have superimposed the platted lines over the survey.
- E) He has a written release of easement from each landowner for lots 8-17.
- F) Inside dimensions of the proposed garage would be nineteen feet, four inches.
- G) Of the entire street, Rustic Drive is the widest at his lot lines.
- H) He has offered to post reduced speed signs, a speed bump in the road [on the west side of his lot], a red light when the garage doors open, and a crossing arm to block the road.

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

i. Reading of letters into the record: Several letters received.

ii. Comments from public in attendance:

Open Public Comments: 6:20 p.m.

Raymond Howe, 13796 Rustic Drive, Gregory, MI

He supports the building of the Ziel garage.

Bob Frayer, 13720 Rustic Drive, Gregory, MI

He supports the planned Ziel garage and doesn't see any safety issues.

Jon Inwood, 13776 Rustic Drive, Gregory, MI

He supports the building of the Ziel garage.

Warren McCormick, 13786 Rustic Drive, Gregory, MI

He supports the building of the Ziel garage.

Close Public Comments: 6:27 p.m.

Vice-Chairperson Filip noted to the applicant that there was not a full Board seated and he needed three affirmative votes from the four members present to gain approval. Vice-Chairperson Filip asked the applicant if he wanted to postpone until the Planning Commission had reviewed concerns and there were a five-member Zoning Board of Appeals seated. Mr. Ziel requested postponement.

Motion by Mr. Drolett, second by Mr. Darnell, to postpone (18-ZBA-854AB) Ziel until the Planning Commission has reviewed it and approved the encroachment into the easement, and there is a full Board. Motion carried by voice vote.

DPZ Michels noted the next regularly scheduled Planning Commission meeting is October 23, 2018, and since it is not a public hearing, it does not need to be noticed in the paper. The next ZBA meeting is scheduled for Thursday, November 8, 2018.

a. Introduction of the case

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| a | Petition Number: | (18-ZBA-855) Roxbury |
| b | Applicant(s): | Mark Roxbury and Susan Roxbury |
| c | Project Description: | Detached accessory building |
| d | Petition Description: | Reduced waterbody setback of twenty (20) feet rather than the fifty (50) feet required. Reduced setback is from the ditch to the east. |
| e | Property Location: | 9600 Island Lake (D-04-36-300-026) |

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

c. Staff Presentation:

DPZ Michels summarized the staff report for (18-ZBA-855) Roxbury.

d. Petitioner Presentation:

Mark Roxbury, homeowner.

- A) He wants to remove and replace the current (rotting) accessory building on the property.
- B) There is an abandoned drain/ditch that runs along the east side of the property.
- C) He has lived on the property a year and has not seen any water in the ditch.

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

- i. Reading of letters into the record: Two letters in Board packet.
- ii. Comments from public in attendance:
 - Open Public Comments: 7:02 p.m.
 - No public present.
 - Close Public Comments: 7:02 p.m.

Vice-Chairperson Filip asked Mr. Roxbury if he wanted to postpone the ZBA review and decision until there was a full five-member Board seated. Mr. Roxbury responded that he would like to continue and receive a decision tonight.

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

Deliberation:

- A) Proposed placement of building is appropriate as another driveway is not feasible.
- B) Status of ditch with Drain Commission.
- C) Two front lot lines.
- D) Septic field location.

Standards of Review:

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| (1) Practical Difficulty §4.30(C)(1) Does the requested variance meet the following standard: | 18.23(B) Waterbody |
| <i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i> | YES Drolett Darnell Ehman Filip |
| Notes: Filip – This is a situation, as pointed out, there are two front lot lines, space for an alternate drain field somewhere on the property [limiting possible building sites], whereby placement of the ditch does present a practical difficulty. | NO None |
| (2) Physical Conditions §4.30(C)(2) Does the requested variance meet the following standard: | 18.23(B) Waterbody |
| <i>The practical difficulty is due to some physical condition peculiar to the property</i> | YES |

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| <p>involved.</p> <p>Notes: Drolett – The explanation in number one would apply to number two also.</p> | <p>Drolett Darnell Ehman Filip</p> <p><u>NO</u> <i>None</i></p> |
| <p>(3) Self-Created §4.30(C)(3) Does the requested variance meet the following standard:</p> | <p>18.23(B) Waterbody</p> |
| <p><i>The practical difficulty is not self-created.</i></p> | <p><u>YES</u></p> |
| <p>Notes:</p> | <p>Drolett Darnell Ehman Filip</p> <p><u>NO</u> <i>None</i></p> |
| <p>(4) Reasonable Amount Necessary §4.30(C)(4) Does the requested variance meet the following standard:</p> | <p>18.23(B) Waterbody</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 hasn't been any evidence presented that this is an excessive amount. Drolett – If he moved it anyplace else he'd have to put in another driveway so this is the best place for it.</p> | <p>Drolett Darnell Ehman Filip</p> <p><u>NO</u> <i>None</i></p> |
| <p>(5) Public Health, Safety, and Welfare §4.30(C)(5) Does the requested variance meet the following standard:</p> | <p>18.23(B) Waterbody</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: Filip – Placement in this area probably preserved that, and there hasn't been any evidence presented to the contrary.</p> | <p>Drolett Darnell Ehman Filip</p> <p><u>NO</u> <i>None</i></p> |
| <p>(6) Adverse Effect §4.30(C)(6) Does the requested variance meet the following standard:</p> | <p>18.23(B) Waterbody</p> |
| <p><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></p> | <p><u>YES</u></p> |
| <p>Notes: Filip – Adding an additional driveway may reduce the value of the property and the properties around it.</p> | <p>Drolett Darnell Ehman Filip</p> <p><u>NO</u> <i>None</i></p> |
| <p>(7) Intent of the Ordinance §4.30(C)(7) Does the requested variance meet the following standard:</p> | <p>18.23(B) Waterbody</p> |
| <p><i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i></p> | <p><u>YES</u> Drolett</p> |

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| Notes: | Darnell Ehman Filip <u>NO</u> None |
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g. Action on Petition- Motions by the Zoning Board of Appeals

Motion by Mr. Drolett to grant the variance on petition number (18-ZBA-855), address 9600 Island Lake Road, property id (D-04-36-300-026), to reduce waterbody setback of twenty (20) feet rather than the fifty (50) feet required, from a ditch running to the east of the property; also recognizing the nonconformities that are stated in the Zoning Administrators report [page 2-3, 2-F]. Motion second by Mr. Ehman. Motion carried by voice vote.

8. Public Comment: None.

8a. Approval of Minutes- September 4, 2018

Motion by Mr. Drolett, second by Mr. Darnell, to approve the minutes as amended. Motion carried 3-0 with Ms. Filip abstaining.

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

Recording Secretary: Concerned that if the discussions were eliminated in the minutes, the document would be lacking if it was challenged in court.

DPZ Michels: The record needs finding of fact. There needs to be recorded reasons "because". A judge needs to know how this body reached its decision.

Mr. Darnell: The minutes don't need to include discussion.

Ms. Filip: Would like to address what the ZBA wants recorded in the minutes at the next Zoning board of Appeals meeting.

DPZ Michels: Next months meeting is on Thursday, November 8th, due to the election on Tuesday, the regularly scheduled meeting date.

10. Adjournment: Vice-Chairperson Filip declared the meeting adjourned at 7:46 p.m.

Respectfully submitted,

Jay Holland, Secretary

Janis Miller, Recording Secretary