

DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

6880 DEXTER-PINCKNEY ROAD
DEXTER, MI 48130

TELEPHONE: 734-426-3767
FAX: 734-426-3833

WWW.DEXTERTOWNSHIP.ORG

AGENDA

November 7, 2023

6:00 pm

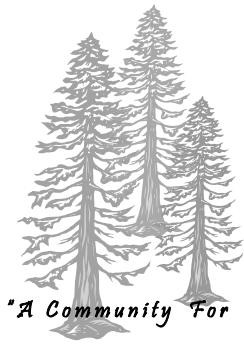
1. **Call to Order**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Approval of Minutes-** October 3, 2023
5. **Public Comment** (*Non-agenda Items*)

6. **Public Hearing Procedure Review**
7. **Action Items** (*None*)
8. **Public Comment** (*Non-agenda Items*)

9. **Concerns of Zoning Board of Appeals Members, Director of Planning and Zoning, and Recording Secretary**
 - a) Carlisle/Wortman memorandum re: future ordinance updates
10. **Adjournment**

PUBLIC COMMENT/INPUT POLICY

1. Speakers shall address the Zoning Board of Appeals from the front table/lectern and begin by stating their name and address.
2. Speakers are encouraged to be as factual and brief as possible, and to restrict comments to the application and property under consideration.
3. Speakers shall address all comments and questions to the Chairperson.
4. Speakers are limited to three minutes each. The Chairperson has the discretion to extend the time.
5. Members of the audience sharing similar positions may caucus and select a single spokesperson, who may speak for up to five minutes. The Chairperson has the discretion to extend the time.
6. Speakers may address the Zoning Board of Appeals more than once, but subsequent comments must bring new information, correct the record, or raise new questions.
7. Members of the Zoning Board of Appeals may question any speaker to gather information.
8. Off-topic comments and interruptions from members of the audience shall be ruled out of order.



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BROOK SMITH
CHAIRPERSON

BETH FILIP
VICE CHAIRPERSON

PETER MAIER
SECRETARY

KATHY BRADBURY
MARTY STRAUB

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

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday October 3, 2023

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Peter Maier, Kathy Bradbury, and alternate Don Darnell. Absent: Marty Straub

Also present: MC Moritz, OHM Advisors representing Planning and Zoning; Ashley Cepeda, Zoning Administrator, and Janis Miller, Recording Secretary.

1. **Call to Order:** Chairperson Smith called the meeting to order at 6:00 PM.
2. **Pledge of Allegiance:** Recited by all.
3. **Approval of Agenda:**
With no corrections or additions, the Chair deemed the agenda approved as circulated.
4. **Approval of Minutes:**
Motion by Maier to approve the September 5, 2023 minutes as amended. Motion seconded by Filip. All ayes. Motion carried.
5. **Public Comment – Non-Agenda Items:** Opened at 6:02 pm. No public comments. Office Manager Samantha Edwards introduced the new Zoning Officer Ashley Cepeda. Sam also mentioned that there is a new Planner, Megan Masson-Minock, AICP with Carlisle Wortman, who will be attending the ZBA meetings in the future. Ashley introduced her background to the ZBA members and answered questions about her role in the office and how it would interconnect with the Township Planner and Zoning Board.
6. **Public Hearing Procedure:** Skipped as the Chair said it was on the back of the agenda.
7. **Action Items:**

Item #1 (23-ZBA-005) Hilberer Construction, Inc. (contractor) on behalf of Deborah Hardesty (owner)

Variance:

- a) Request for variance from Zoning Ordinance Section 6.02 for proposed rear yard setback of 13' rather than the required 30'.

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

Beth Filip spoke with the applicant when visiting the property, exchanged a few pleasantries and introduced herself.

Kathy Bradbury said she introduced herself to the applicant in the driveway but no further exchange took place.

b. Staff Presentation and Questions from ZBA members:

MC Moritz, OHM Advisors, provided an overview of the project as a 24' x 26' garage, eleven feet seventeen inches (11.17 feet) in height, in the rear yard on Rural Residential zoning. The need for a variance was the reduced rear yard setback to thirteen feet (13 feet) on a narrow lot. The neighbor to the southeast (4890 Dexter Pinckney Rd) was granted a variance in 2012 for a 24'x 28' garage on a similar size lot. She answered questions including the size of adjacent lots.

c. Petitioner Presentation and Questions from ZBA members:

Jason Hilberer, contractor, spoke for the applicant. He said the 24-foot garage was needed to accommodate a wheelchair van. The garage is reasonable in size and is placed on the lot for vehicles to turn around. There is a deck on that side of the house which, in the future, would be removed and the garage connected to the house by a breezeway. The garage design is similar to the house and mirrors other garages in the neighborhood. Questions of ZBA members: Why not build a nineteen foot (19 foot) wide garage that would not require a variance? A: The wheelchair van needs space to maneuver. Could they reconfigure the deck to move closer to the house and increase the rear yard setback? A: There is a well near the house and a door-wall to the deck to consider.

d. Public Comment:

i. letters and/or emails: None.

ii. comments from public in attendance: None.

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

Deliberations: This application doesn't meet the standards. There is no practical difficulty, or reasonable amount. Maybe reconfigure the deck so there is twenty feet (20 feet) from the garage to the rear lot line. The driveway currently is wider at the rear of the lot.

Standards of Review

(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard	§6.02 Rear yard setback
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<p style="text-align: center;"><u>YES</u> Bradbury Filip Maier Smith</p> <p style="text-align: center;"><u>NO</u> Darnell</p>
Notes: Filip – The size of the lot is particularly small compared to the other lots in the Rural Residential District. Smith – We kinda decided that if there is any possible way for people get a two care garage on their lots we like it as not having one is a practical difficulty.	

<p>(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></p>	<p><u>YES</u> Bradbury Filip Maier Smith</p>
<p>Notes: Smith – Yes, as what we have here is a lot that is smaller than contemplated in this Zoning District and so I think this is practical difficulty is related to the lot itself size.</p>	<p><u>NO</u> Darnell</p>

<p>(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The practical difficulty is not self-created.</i></p>	<p><u>YES</u> Bradbury Filip Darnell Maier Smith</p>
<p>Notes:</p>	<p><u>NO</u> None</p>

<p>4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The variance is a reasonable minimum amount necessary to mitigate the practical difficulty.</i></p>	<p><u>YES</u> Bradbury Filip</p>
<p>Notes: Filip – Reasonable <u>minimum</u> amount necessary? Smith – The ZBA adopted that standard as a standard to be used while we were waiting for changes to the Zoning Ordinance. Filip – The Zoning Ordinance (§20.06(C)(4) does say “Reasonable Amount: The variance is the minimum amount necessary mitigate the practical difficulty.” If it was the minimum amount necessary, I would have to say NO. If I go minimum reasonable amount I might come up with a different answer. Smith – I continue to believe the ZBA has made a decision about how to apply this standard while we still have conflict in the language. I think that every time we’re presented with the statement “The variance is a reasonable amount necessary”, which is not the language of our ordinance, that is just very confusing. Maier – Clearly the ordinance language controls over whatever these purport to be. Clearly this not a law, just guidelines and we are free to interpret on our own. Smith – What the ordinance says is we cannot grant a variance unless we find it meets all of these standards. The standards are theoretically the ones set forth in the ordinance, except this isn’t what our ordinance says. We are interpreting it “The variance is the reasonable minimum amount necessary to mitigate the practical difficulty.” Smith – The Chair votes No as well, as I don’t think it’s the reasonable amount.</p>	<p><u>NO</u> Darnell Maier Smith</p>

(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard	§6.02 Rear yard setback
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i> Notes: Filip – Yes, there has been no evidence presented that it would be injurious.	<u>YES</u> Bradbury Filip Darnell Maier Smith <u>NO</u> None

(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard	§6.02 Rear yard setback
<i>Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.</i> Notes: Darnell – No. There’s a piece of property right there that nobody’s looking for, right behind it. Smith – I don’t think this additional seven or thirteen feet is going to have a negative impact on that property.	<u>YES</u> Bradbury Filip Maier Smith <u>NO</u> Darnell

(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard	§6.02 Rear yard setback
<i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i> Notes: Darnell – No because it’s not the reasonable minimum amount necessary, I can’t vote yes. Smith – The Chair votes yes as well because it’s not the reasonable minimum amount necessary.	<u>YES</u> Bradbury Filip Smith <u>NO</u> Darnell Maier

f. Motion by Zoning Board of Appeals:

Motion by Filip to deny the variance request for petition (23-ZBA-005), for the property located at 4815 Dexter Pinckney Road, tax id. D-04-25-460-014, for a variance request of thirteen feet (13 feet) as opposed to the required thirty feet (30 feet) as set forth in Section 6.02 of the Ordinance; the applicant being Hilberer Construction on behalf of the owner of the property Deborah Hardesty.
 Motion seconded by Darnell.

Roll Call Vote: Yeas – Bradbury, Filip, Darnell, Maier, and Smith: Nays - None: Absent – None. Motion carried 5-0.

Discussion: Conversation on the easiest way for this applicant to ask for something that we might be willing to approve. What is the procedure if she comes back with a different plan. MC Moritz said with the Boards analysis and conclusion, if this garage was closer to the house, it would be less of a variance. Applying §31.12 (B) Reapplication, if substantial

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changes have been made to the application that addressed the reasons for denial the application can be resubmitted. The ZBA could withdraw the motion and approve a lesser variance. Consulting with Jason Hilberer, the contractor, the owner said she was willing to tear down the deck this year, versus next year, and build the garage closer to the house, yielding a twenty foot (20 foot) setback.

Motion by Darnell to rescind that motion, and vote, and put the application back on the table for reconsideration. Motion seconded by Smith.

Roll Call Vote: Yeas – Bradbury, Filip, Darnell, and Smith: Nays - Maier: Absent – None. Motion carried 4-1.

Motion by Darnell, based upon the applicant’s representation, that they could build this structure within a twenty-foot setback, I move to amend the application to consider a twenty-foot setback as opposed to a thirteen-foot setback. Motion seconded by Filip.

Roll Call Vote: Yeas – Bradbury, Filip, Darnell, and Smith: Nays - Maier: Absent – None. Motion carried 4-1.

Standards of Review: For change in variance request to a twenty foot (20 foot) rear yard setback.

<p>(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i></p>	<p><u>YES</u> Bradbury Filip Darnell Maier Smith</p>
<p>Notes: Smith – Chair votes yes as well, for the reasons we’ve already discussed.</p>	<p><u>NO</u> None</p>
<p>(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></p>	<p><u>YES</u> Bradbury Filip Darnell Maier Smith</p>
<p>Notes: Smith – The Chair votes yes as well. Small lot, not much room.</p>	<p><u>NO</u> None</p>

<p>(3) Self-Created §29.06C)(3) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The practical difficulty is not self-created.</i></p>	<p><u>YES</u></p>
<p>Notes:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>The variance is a reasonable minimum amount necessary to mitigate the practical difficulty.</i></p>	<p><u>YES</u></p>
<p>Notes: Darnell – Yes it is now.</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</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:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.</i></p>	<p><u>YES</u></p>
<p>Notes:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>

<p>(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard</p>	<p>§6.02 Rear yard setback</p>
<p><i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i></p>	<p><u>YES</u></p>
<p>Notes:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>

Motion by Filip to approve variance for petition (23-ZBA-005), for the property located at 4815 Dexter Pinckney Road, tax id. D-04-25-460-014, for a requested rear yard setback of twenty feet (20 feet) as opposed to the thirty foot (30 foot) required by Section 6.02 of the Zoning Ordinance; the application Hilberer Construction on behalf of the current owner Deborah Hardesty. Recognizing the nonconformities that have been set forth in our packet. Motion seconded by Darnell.

Roll Call Vote: Yeas – Bradbury, Filip, Darnell, Maier, and Smith: Nays - None: Absent – None. Motion carried 5-0.

Chair Smith congratulated the applicant on the amended variance and told them they had a year to move forward, if not used in that time it will be lost.

Item #2 (23-ZBA-006) Linda Sue Huelke, 14362 Edgewater Dr., Gregory

Variance:

a) Request for a variance from Zoning Ordinance Section 7.07 for a proposed front yard setback of 14.6’ rather than the required 20’.

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

Kathy Bradbury lives on the same road but is not familiar with the applicant.

b. Staff Presentation and Questions from ZBA members:

Ashley Cepeda presented the project as a 20’x 21 1/2’ two car addition with a variance request of a reduced front yard setback, on a non-conforming lot in the Lakes Residential District. The required setback is twenty feet (20 feet) and they are looking for fourteen feet six-inch (14.6 feet) setback. There are some discrepancies that have been written in regarding the square footage of the house and the square footage of the garage. The waterbody setback for the house is not accurate on the application. Not material to the variance.

Refer to the Board packet. Q: The proposed structure is taller than the other structures? A: It is taller. Q: The height has some bearing on the setback? A: Only affects the rear yard setback. Q: Impervious coverage? A: Seventeen percent.

c. Petitioner Presentation and Questions from ZBA members:

Mark Westhoven, applicant’s son. He stated that the two-car garage is 20’x21.5’. The shed will be demolished after the garage is built. The DNR owns the land from lot line to water edge. The house is fifty-three feet six-inches (53.6 feet) from the water.

d. Public Comment:

i. letters and/or emails: Letters in Board packet.

ii. comments from public in attendance:

Architect Kyle Marsh stated there is no basement or attic for storage. He attempted to keep the profile low. As the gravel road meanders so it is far from the house.

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

Deliberations: Darnell said he represents many of the homeowners on Edgewater in litigation against the DNR. Filip pointed out that it does not affect the application. The ZBA needs to take into consideration the impervious coverage around the lake. This appears to be the reasonable minimum amount for a variance. Not paying enough attention to the construction around the lakes and impervious coverage is a factor that needs to be taken into consideration.

Standards of Review

<p>(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</p>
<p><i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i></p> <p>Notes: Smith – A small lot and people want garages if they can.</p>	<p><u>YES</u> Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</p>
<p><i>The practical difficulty is due to some physical condition peculiar to the property involved.</i></p> <p>Notes: Smith – Yes, for the reasons just described.</p>	<p><u>YES</u> Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>

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<p>(3) Self-Created §29.06C)(3) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</p>
<p><i>The practical difficulty is not self-created.</i></p>	<p><u>YES</u></p>
<p>Notes:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</p>
<p><i>The variance is a reasonable minimum amount necessary to mitigate the practical difficulty.</i></p>	<p><u>YES</u></p>
<p>Notes: Filip – I would just reiterate what was mentioned by the designer here, the back of the garage will be the driving factor of the setback. They are looking for enough space to get around the vehicles. Darnell – Yes, but I think it is very significant.</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</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: Darnell -</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>
<p>(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</p>
<p><i>Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.</i></p>	<p><u>YES</u></p>
<p>Notes:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>

<p>(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard</p>	<p>§7.07(3) Front yard setback</p>
<p><i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i></p>	<p><u>YES</u></p>
<p>Notes:</p>	<p>Bradbury Filip Darnell Maier Smith</p> <p><u>NO</u> None</p>

f. Motion by Zoning Board of Appeals:

Motion by Filip to approve petition (23-ZBA-006), for the property located at 14362 Edgewater Drive, tax id. D-004-06-355-013, for the requested fourteen feet six-inches (14.6 feet) setback as opposed to the twenty-foot (20 foot) setback required, under Ordinance Section 7.07(3), recognizing the non-conformities that have been included in our packet. Motion seconded by Darnell.

Roll Call Vote: Yeas – Bradbury, Filip, Darnell, Maier, and Smith: Nays - None: Absent – None. Motion carried 5-0.

Chair Smith congratulated the applicant on approval of their variance and stated they had a year before the variance expired.

8. Public Comment: Opened 7:28 pm. No public comments.

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

Filip: She stated that it was important that the applicant be present, even when represented. She welcomed Ashley and thanked MC for all her work.

Smith: The matrix does not have the current Zoning Board language “reasonable minimum amount”. Ashley responded that it was a high priority with new staff.

Smith: He questioned if there was progress on the township email. Ashley responded that the third-party IT would be in the township hall tomorrow.

10. Adjournment

Chairperson Smith declared the meeting adjourned at 7:34 p. m.

Respectfully submitted,

 Peter Maier, Secretary

 Janis Miller, Recording Secretary



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: Dexter Township Zoning Board of Appeals
Ashley Cepeda, Zoning Officer

FROM: Megan A. Masson-Minock, AICP

DATE: November 1, 2023

RE: Zoning Ordinance Update

We are pleased to have joined the Dexter Township team as planning consultants for the Township! As one of our first tasks, Supervisor Sikkenga has asked us to review the Township Zoning Ordinance and suggested Zoning Ordinance amendments from former staff members to create a work plan for updating the Township Zoning Ordinance in the next few months.

As part of that process, we would like to discuss with you at your upcoming meeting the following:

- What Zoning Ordinance changes are needed?
- What recommended changes to the Zoning Ordinance were not included in the 2020 Zoning Ordinance update?
- Of those changes, which would need research or community consultation?

We look forward to meeting you on November 7th!

Sincerely,

CARLISLE/WORTMAN ASSOC., INC
Megan Masson-Minock, AICP
Principal