



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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BROOK SMITH
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BETH FILIP
VICE CHAIRPERSON

JAY HOLLAND
SECRETARY

PETER MAIER
MARTY STRAUB

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

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday August 3, 2021

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary Jay Holland, Peter Maier, and Marty Straub. Absent: None

Also present: David Rohr, Director of Zoning and Planning.
Absent: Janis Miller, Recording Secretary.

1. **Call to Order:** Call to order at 6:00 pm
2. **Pledge of Allegiance:** Recited by all.
3. **Approval of Agenda:** Without additions or corrections, Chairperson Smith deemed the agenda approved as submitted.
4. **Approval of Minutes:** Motion by Straub to approve the minutes of June 1, 2021, as amended. Motion second by Filip. Motion carried by voice vote.
5. **Public Comment – Non-Agenda Items:** None.
6. **Public Hearing Procedure Review:** Chairperson Smith reviewed procedures for audience present.
7. **Action Items:**

Item #1 (21-ZBA-895) Kathleen & Michael Conter

Variations:

- A) Reduced waterbody setback of fifteen point nine (15.9) feet rather than the fifty (50) feet required,
- B) Reduced side setback of four (4) feet rather than the eight (8) feet required.

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

Smith spoke with Mrs. Conter but did not discuss the application.

b. Staff Presentation and Questions from ZBA members:

DPZ Rohr summarized that there are actually four parcels with extreme topography. The request is to remodel an existing home by slightly changing the footprint with an addition. The addition will not be any closer to the water than the existing structure. Due

to the height of the building the required side setback is eight (8) feet. Questions and discussion with DPZ Rohr concerning the separate legal descriptions of each parcel and the ZBA considering the variance setbacks based on all four parcels as one. Difficulty would be if one of the parcels is sold, the non-conformity would increase on the remodeled building.

c. Petitioner Presentation and Questions from ZBA members:

Applicant Michael Conter, summarized the project and answered questions of the Zoning Board members.

d. Public Comment:

- i. letters and/or emails: Five letters received.
- ii. comments from public in attendance: None.

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

Discussion of outside living space. Definition of a structure and setbacks relevant to structure. Concern is that a patio is a structure.

Standards of Review:

(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard:	A	B
	Front setback 18.23(A)	Accessory building 18.18(C)(2)Aii
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Holland Filip Straub Maier Smith	<u>YES</u> Holland Filip Straub Maier Smith
Notes:	<u>NO</u> None	<u>NO</u> None

(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard:	A	B
	Front setback 18.23(A)	Accessory building 18.18(C)(2)Aii
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Holland Filip Straub Maier Smith	<u>YES</u> Holland Filip Straub Maier Smith
Notes: Filip – This lot is rather strangely shaped and all the parcels join together, considered together are strangely shaped and I don’t think they had anything to do with that. There is a strange physical condition here. Smith – I think one of the things we have to think about in terms of the practical difficulty is the fact that the residence already existed and they are going out from what’s already there and not moving any closer to the waterbody or the side setbacks.	<u>NO</u> None.	<u>NO</u> None

(3) Self-Created §29.06(C)(3)	A	B
Does the requested variance meet the following standard:		
<i>The practical difficulty is not self-created.</i>	<u>YES</u>	<u>YES</u>
Notes: Filip – There is no evidence.	Holland Filip Straub Maier Smith	Holland Filip Straub Maier Smith
	<u>NO</u> None	<u>NO</u> None

(4) Reasonable Amount Necessary §29.06(C)(4)	A	B
Does the requested variance meet the following standard:		
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u>	<u>YES</u>
Notes: Smith – Yes, again they haven't moved any closer to the waterbody and they've explained good reasons why they want to go with the structure they are requesting.	Holland Filip Straub Maier Smith	Holland Filip Straub Maier Smith
	<u>NO</u> None	<u>NO</u> None

(5) Public Health, Safety, and Welfare §29.06(C)(5)	A	B
Does the requested variance meet the following standard:		
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i>	<u>YES</u>	<u>YES</u>
Notes: Filip – There has been no evidence provided otherwise. Smith – The Chair supports Beth's analysis.	Holland Filip Straub Maier Smith	Holland Filip Straub Maier Smith
	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect §29.06(C)(6)	A	B
Does the requested variance meet the following standard:		
<i>Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.</i>	<u>YES</u>	<u>YES</u>
Notes: Holland – Recognizing the notes from the neighbors, I vote yes and yes.	Holland Filip Straub Maier Smith	Holland Filip Straub Maier Smith
	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance §29.06(C)(7)	A	B
Does the requested variance meet the following standard:		
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u>	<u>YES</u>
Notes: Smith – Recognizing the point of the Ordinance is to allow variances when the conditions set forth above are met.	Holland Filip Straub Maier Smith	Holland Filip Straub Maier Smith
	<u>NO</u> None	<u>NO</u> None

Discussion: Combining the four parcels under one tax parcel number. DPZ Rohr suggested that as part of the motion, if the applicant agrees to combine the parcels, it can be incorporated into the motion. The difference between one parcel and one lot. Where in Ordinance setbacks run from parcel lines versus lot lines.

f. Motion by Zoning Board of Appeals:

Motion by Filip to approve the variances requested:

Due to applicant’s willingness to obtain a single parcel id for the now four parcels that are being represented as a single lot, at 7537 Noah’s Landing, tax id (D-04-18-100-024-024/025/034/35); for ZBA petition (21-ZBA-895), to Kathleen & Michael Conter, for a) reduced waterbody setback of fifteen point nine (15.9) feet rather than the fifty (50) feet required and, b) a reduced side setback of four (4) feet rather than the eight (8) feet required. Motion second by Maier.

Roll Call Vote: Yeas – Holland, Filip, Straub, Maier, Smith: Nays - None: Abstain – None: Absent – None. Motion carried 5-0.

Chairperson Smith congratulated the applicant and reminded them to get with DPZ David because the variance expires in a year.

8. Public Comment: None.

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

Smith: Remembering previous arguments regarding a single projection into the required setback created the right to have the entire structure moved out that close to the setback. Isn’t that the proposition that the ZBA just endorsed with this variance approval?

10. Adjournment: Chairperson Smith declared the meeting adjourned at 7:03 p. m.

Respectfully submitted,

 Jay Holland, Secretary

 Janis Miller, Recording Secretary

Documents regarding the agenda items can be obtained at the Township Hall during normal business hours, the Townships website: www.dextertownship.org and can be viewed on ew.livestream.com/dextertownship.org.