



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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BROOK SMITH
CHAIRPERSON
BETH FILIP
VICE CHAIRPERSON
VACANT
SECRETARY

PETER MAIER
MARTY STRAUB

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

JANIS MILLER
RECORDING SECRETARY

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday May 3, 2022

Members present: Chairperson Brook Smith, Vice-Chairperson Beth Filip, Secretary and Marty Straub.
Absent with notice: Peter Maier

Also present: David Rohr, Director of Zoning and Planning; 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 the addition of agenda item Election of Officers, Chairperson Smith deemed the agenda approved as amended.
4. **Approval of Minutes:** Motion by Filip, seconded by Straub, to approve the minutes of September 7, 2021 as presented. All ayes. Motion carried.
- 4a. **Election of Officers:**
Motion by Straub to nominate Brook Smith as Chair, Beth Filip as Vice-Chair, and Peter Maier as Secretary. Motion seconded by Filip. All ayes. Motion carried.
5. **Public Comment – Non-Agenda Items:**
Opened at 6:02 pm. No comments. Closed 6:02 pm.
6. **Action Items:**

Item #1 (22-ZBA-897) Terri Kleinschmidt, 9367 Anne St.

Variations:

- a) Reduced waterbody setback of 31.7 feet rather than the 50 feet required, and
- b) Reduced front setback (Anne St.) of 7.2 feet rather than the 25 feet required.

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

No conflicts of interest.

b. Staff Presentation and Questions from ZBA members:

DPZ Rohr: The new two-story home is in line with other homes in the neighborhood. There are no side setback issues. The existing shed will be removed. Lot coverage for this home is under 30% in this Lake Residential (LR) District.

c. Petitioner Presentation and Questions from ZBA members:

Petitioner Terri Kleinschmidt said her mother-in-law built the cabin in 1933 before she was married. The foundation was cement filled dishpans turned upside down. When built, the cabin had electricity but no heat or water. In the 1950's plumbing was added. Terri said her husband (who died recently) did all the upkeep on the home but now there are serious structural issues which means the cottage needs to be rebuilt.

d. Public Comment:

i. letters and/or emails: Three letters of support in the file.

ii. comments from public in attendance:

Opened at 6:02 pm

Cynthia Mott Grelecki, 9541 Anne St.

She stated the water in the cabin was a pump in the kitchen, no other plumbing. She praised the Kleinschmidt family as "stellar" and supports the replacement of the cabin with a new two-story home.

Linda Singer, 9260 Anne St.

She described the Kleinschmidts as "great people" and supports the replacement of the cabin with a new home. Linda also pointed out that a neighbor had concreted their driveway, which caused runoff on Terri's property, and she had to rectify the problem. Linda also thanked the township for fixing the problem of boats on the lake at all hours with the new ordinance setting boating time limits.

Closed at 6:13 pm

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

Deliberations: It was noticed that Standard #4, in the Standards of Review, had a word changed, from the prior Zoning Ordinance to the new Zoning Ordinance. The words "reasonable amount necessary" were changed to "minimum amount necessary", although "Reasonable Amount" was added as a caption at the beginning of the new standard. Because of the conflict between "Reasonable Amount" as a caption and "minimum amount in the text, DPZ Rohr agreed that was his interpretation that the "reasonable amount" standard should be used as it had been in the past. DPZ Rohr undertook to begin the process of submitting a correction of the conflicting language to the Board of Trustees. Comments on the property: there was no foundation for the cabin; there was no existing garage; the house cannot be moved back because of the slopping topography; the new home footprint is essentially the same as the cabin.

Standards of Review:

(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard	A	B
	Waterbody setback 7.02	Front setback 7.02
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Smith: The size of the house they are looking for is reasonable. The shape and size of the lot essentially require a variance be granted in order to allow them to continue to build what is a reasonable structure on the property.	<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
	Waterbody setback 7.02	Front setback 7.02
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Filip: Yes and yes, and I would raise the discussion we had with regards to the offset from the front, and it would be very difficult, with the sloping of the property, to adjust the location of the house on the property. Smith: Yes, for the same reasons.	<u>NO</u> None	<u>NO</u> None
(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard	A	B
	Waterbody setback 7.02	Front setback 7.02
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Straub: Yes and yes, and I'd like to just note that the original structure, and most of the evolution between what it started out as and what it is today, predated any Dexter Township Zoning Ordinances.	<u>NO</u> None	<u>NO</u> None
(4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard	A	B
	Waterbody setback 7.02	Front setback 7.02
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Smith: Again, as we have already discussed, we're going with reasonable amount rather than minimum amount [in 2020 Zoning Ordinance] because we think there was a failure to catch a mistyped word, and we've got the Director of Planning and Zoning's interpretation that says by going reasonable we are doing the right thing. So, the Chair votes yes and yes as well.	<u>NO</u> None	<u>NO</u> None

(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard	A	B
	Waterbody setback 7.02	Front setback 7.02
Approval of the variance will not be injurious to the public health, safety, and welfare.	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Straub: Yes and yes, and I would expect that with the new architect designed structure that some of the existing issues will be resolved, with new structure. Filip: Yes and yes for the reasons Marty just stated.	<u>NO</u> None	<u>NO</u> None

(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard	A	B
	Waterbody setback 7.02	Front setback 7.02
Approval of the variance will not affect the use of the adjacent properties or the area in a substantially adverse manner.	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Smith: Yes and yes as well. I think the letters in the file, and just looking at the situation, both indicate this will be a plus for the neighborhood.	<u>NO</u> None	<u>NO</u> None

(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard	A	B
	Waterbody setback 7.02	Front setback 7.02
Approval of the variance is consistent with the intent and purpose of this Ordinance.	<u>YES</u> Straub Filip Smith	<u>YES</u> Straub Filip Smith
Notes: Filip: Yes and yes, I think this is going to be a significant improvement and given that they have taken such care to place the structure in a similar manner to what the other structure had already been placed. I think they've done a good job of that.	<u>NO</u> None	<u>NO</u> None

f. Motion by Zoning Board of Appeals:

Motion by Filip to approve the variance for petition (22-ZBA-897), for the property located at 9367 Anne St., tax id (D-04-03-207-012 & D-04-03-206-001), by the applicant Terri Kleinschmidt, for a) reduced waterbody setback of 31.7 feet rather than the 50 feet required, and b) reduced front setback (from Anne St.) of 7.2 feet rather than the 25 feet required, and recognizing the non-conformities listed on page 2 of the staff report. Motion seconded by Straub.

Filip amendment to the motion: The structure will be built in substantial compliance with the plans that have now been reviewed. Amendment seconded by Straub.

Roll Call Vote: Yeas – Straub, Filip, Smith: Nays - None: Abstain – None: Absent – Maier. Motion carried 3-0.

7. Public Comment:

Opened at 6:28 pm

Linda Singer, 9260 Anne St.

She asked if your house sits back 10 to 20 feet from the road, are you allowed to cement from your house to the road, especially if you are on a hill?

Chairperson Smith said ZBA cannot answer those kinds of questions because the ZBA only decides variances.

DPZ Rohr stated if you create a situation where stormwater is an issue, officially and technically all water should stay on your property, then you need stormwater mitigation, which the Road Commission deals with in this situation.

Closed at 6:29 pm

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

DPZ Rohr: Draft of the Master Plan will be available soon. A postcard will be sent out to residents to get some feedback.

Chairperson Smith: Handed out the ZBA Rules for Procedure, which was last reviewed nine years ago, and commented that there were references to the old Zoning Ordinance that needed to be changed. To be addressed at a future meeting.

DPZ Rohr: He is trying to recruit for the open ZBA position.

Chairperson Smith: Brought up the document "Rules for Employees" that the Clerk wanted signed. He stated that ZBA members were not employees of the township.

Straub: He stated he did not sign the "Rules for Employment" but did sign the "Conflict of Interest" document and wondered if the Board of Trustees operated under different conflict of interest rules, i.e., the latest Development Agreement, as a member of the Board has adjacent property to the development.

9. Adjournment: Chairperson Smith declared the meeting adjourned at 6:41 p. m.

Respectfully submitted,

Brook Smith, Chairperson

Janis Miller, Recording Secretary