



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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BROOK SMITH
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BETH FILIP
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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, September 5, 2023

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

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

1. **Call to Order:** Applicant was not aware the meeting was at 6PM nor did they know they should be present to answer questions from the ZBA members. Applicants arrived at 6:35 PM. Chairperson Smith called the meeting to order at 6:37 PM.
2. **Pledge of Allegiance:** Recited by all.
3. **Approval of Agenda:**
With no corrections or additions, the Chair deemed the agenda approved as presented.
4. **Approval of Minutes:**
Motion by Straub to approve the May 2, 2023 minutes as presented. Motion seconded by Maier. All ayes. Motion carried.
5. **Public Comment – Non-Agenda Items:** No public present.
6. **Public Hearing Procedure:** Skipped as there was no public to address.
7. **Action Items:**

Item #1 (23-ZBA-004) John and Katherine Buehler, 13270 Redmonds Hill Ct

Variance:

a) Request for variance from Section 16.11(F)(3) requiring maximum height of 8.5’.

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

Beth Filip spoke with Katherine when visiting the property but just said Hello and introduced herself.

b. Staff Presentation and Questions from ZBA members:

MC Moritz introduced the project as a shed (192 sq ft) on Rural Residential property of a little over an acre. The need for a variance was that the height of the shed

exceeded the Zoning Ordinance limitation of eight and a half feet (8.5 ft).
 Questions from ZBA: 1) If we approve this variance request, would this shed have to be inspected by Chelsea Area Construction Agency (CACCA)? MC responded that would be a question for the CACA Building Inspector. 2) Do we really have a good idea of what the actual proposed height of the shed is as described in the Zoning Ordinance, which does not measure the shed to the highest point of the roof but rather measures it to the height of the sidewall plus half of the height of the roof, which puts this shed at less than 10 feet? 3) Typically, the township provides this large yellow sign (noticing) that was absent on the applicant’s property. Does the sign reside in the township and do we loan it out to each applicant? MC said she didn’t know but would ask the Zoning Officer Adrianna and they would find an answer.

c. Petitioner Presentation and Questions from ZBA members:

John Buehler said the eight-and-a-half-foot roof height meant that he hit his head on the rafters inside the building. They are looking to build a reasonably size shed.

Questions from ZBA: 1) What’s the HOA limitation on the shed? A: 200 sq. ft.

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: Ridiculous combination of circumstances that brought them here. The Zoning Ordinance is too complex for what we are doing this evening. The accessory building still has to be approved by the HOA. In depth discussion of how to measure the roof height. Some of the decision criteria matrix does not fit as there is a conflict in the ordinance as it was not intended to in this situation where someone has over an acre and are restricted. This needs to get fixed, remand to the Planning Commission. Discussion on overhangs and building coverage. Discussion on conflicting laws which the Zoning Ordinance states the strictest one applies. Definition of “intent” is Section 16.01.

Standards of Review:

(1) Practical Difficulty §29.06(C)(1) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<i>The strict application of the terms of this Ordinance would constitute a practical difficulty.</i>	<u>YES</u> Bradbury Filip Straub Smith
Notes: Smith: I can’t think of anything that is more of a practical difficulty than slamming someone with a one-acre lot with an eight-and-a-half-foot limitation on the size of their accessory height.	<u>NO</u> Maier

(2) Physical Conditions §29.06(C)(2) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<i>The practical difficulty is due to some physical condition peculiar to the property involved.</i>	<u>YES</u> Straub Smith Bradbury Filip
Notes: Straub: Yes, to summarize the reason I stated before, physical condition that is peculiar to this property that is slightly over one acre and therefore falls into this area of the Zoning Ordinance. Smith: The Chair joins Marty in his analysis and votes Yes. Comment after changing her vote from no to yes: Filip: Yes, provided that a Deed Restriction or Bylaw would qualify as a physical condition peculiar to the property involved.	<u>NO</u> Bradbury Filip Maier

(3) Self-Created §29.06(C)(3) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<i>The practical difficulty is not self-created.</i>	<u>YES</u> Bradbury Filip Straub Maier Smith
Notes:	<u>NO</u> None

4) Reasonable Amount Necessary §29.06(C)(4) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<i>The variance is a reasonable amount necessary to mitigate the practical difficulty.</i>	<u>YES</u> Bradbury Filip Straub Smith
Notes:	<u>NO</u> Maier

(5) Public Health, Safety, and Welfare §29.06(C)(5) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<i>Approval of the variance will not be injurious to the public health, safety, and welfare.</i>	<u>YES</u> Bradbury Filip Straub Maier Smith
Notes:	<u>NO</u> None

(6) Adverse Effect §29.06(C)(6) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<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> Bradbury Filip Straub Maier Smith
Notes:	<u>NO</u> None

(7) Intent of the Ordinance §29.06(C)(7) Does the requested variance meet the following standard	16.11(F)(3) Accessory Height
<i>Approval of the variance is consistent with the intent and purpose of this Ordinance.</i>	<u>YES</u> Bradbury Filip Straub Maier Smith
Notes:	<u>NO</u> None

Discussion: *As noted above, there were initially three no votes on Standard #2.* Motion to reconsider votes on #2 Physical Conditions made by Maier. Intent of Zoning Ordinance as stated in Section 16.01. The interpretation of #2 in regards to lot size. The practical difficulty is that they are subjected to HOA Bylaws will not let them build an accessory building over 200 sq. ft. (they have 1.08 acres) and therefore the applicant is unable to do what the Zoning Ordinance requires to go above the 200 sq. ft. and satisfy the conditions. Summary by Filip: Their HOA Bylaws are unique to this situation and prevent them from going beyond 200 sq. ft. Filip and Bradbury changed their vote on #2 to Yes after the discussion.

f. Motion by Zoning Board of Appeals:

Motion by Filip to approve the variance for petition (23-ZBA-004), for the property located at 13270 Redmonds Hill Ct., tax id. (D-04-19-110-025), the applicants John and Katherine Buehler, for the requested [shed height] height of eleven feet (11.0 feet) as opposed to the required height of eight feet six inches in ordinance section 16.11 (F)(3). Motion seconded by Straub.

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

Chairperson Smith congratulated the applicant and said their request for a variance was approved and they had a year to get things done by getting a permit issued by the Township Planning and Zoning Department.

8. Public Comment: No public present.

9. Concerns of ZBA Members, DPZ, and 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.

Filip: We need to communicate to the applicants that they do need to be here so the ZBA can discuss their situation with them and get a better understanding of the need for a variance. Discussion in the past has been to “kick it forward” to the next month if the applicant is a no show. Our general culture is to not have the decision criteria already filled out as we want to come to a decision on our own without being swayed by any particular party. Also raise the issue of, and put it at the top of the list, “reasonable minimum amount”, and what it could potentially mean as it will impact every single decision we make between now and when it gets changed. Something more clearly defined, voted upon by the Board of Trustees, would be a good service to the citizens that live in this township.

Bradbury: This was painful and needs [Zoning Ordinance] to be addressed.

Straub: Tonight’s matrix stated “reasonable amount”, unlike all our previous matrix’s.

Smith: Under item 4 it should say “the reasonable minimum amount necessary” as we decided to interpret the ordinance to say that until the Board of Trustees take action on it.

Maier: We need to have our lawyers look at that as we need to know we align with the state requirements as we don’t want to deviate.

Straub: I think had we left here with something other than approval for them to put up their little shed, most of us would have felt bad.

10. Adjournment

Chairperson Smith declared the meeting adjourned at 7:43 p. m.

Respectfully submitted,

Peter Maier, Secretary

Janis Miller, Recording Secretary