

**DEWITT CHARTER TOWNSHIP  
1401 W. HERBISON ROAD, DeWITT, MICHIGAN 48820  
BOARD OF APPEALS MINUTES  
WEDNESDAY, APRIL 19, 2006**

The regularly scheduled meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chairman LaGrand.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Planning Director Jeff Gray.

MEMBERS PRESENT: Chris LaGrand, Shannon Schlegel, Steve Gobbo, Andrew Richards, Trustee Baumann.

MEMBERS ABSENT: Dale Glynn and Robert Reese, III.

APPROVAL OF AGENDA: **Gobbo moved to approve the Agenda as presented. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Musselman moved to approve the minutes of the December 21, 2005 meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

**I. Appeal 06-770001 – From Dean and Ruth Colson**, requesting a variance of 10.2 ft. to the required 35 ft. front yard setback listed in Section 5.18 Schedule of Regulations of the Zoning Ordinance for the R3 (Residential Single Family) zoning district to be allowed to construct an 8 ft. x 25 ft. covered front porch to the existing dwelling that would be 24.8 ft. from the right-of-way of Pinehurst Drive, for property located at 15090 Pinehurst Drive, Lot #255 of Clinton Village #3 Subdivision, in the northeast ¼ of Section 27 of DeWitt Charter Township.

A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:04 p.m.**

B. Administrative Comments/Applicant/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated April 12, 2006 pointing out the location of the site. The applicant was originally requesting a variance of 10.2 feet to the 35 foot minimum front yard setback requirement listed in Section 5.18 Schedule of Regulations of the Zoning Ordinance. If approved, the applicant would remove the existing 5.5 foot by 25.3 foot uncovered porch and would be allowed to construct an 8 foot by 25 foot covered porch on the front of the dwelling. The resulting covered porch would be 24.8 feet from the right-of-way of Pinehurst Drive.

Gray noted that the applicant's representative, Tom Clayton, spoke with staff and clarified that the drawings submitted with the request indicate that the porch would be 8 feet deep. He advised that the porch will actually be build 6 feet deep, reducing the amount of the variance from 10.2 feet to 8.2 feet.

The surrounding zoning consists of R3 (Residential Single Family) and surrounding current land use consists of Single Family Residential.

Thirty-five (35) letters were sent out notifying the public of this request. Staff received one correspondence (Mosher letter dated April 15, 2006) and two telephone calls. All were in support of the applicant's variance request being approved.

Gray advised that the subject site is located in a subdivision that was platted in 1957. When considering variances in parts of the Township where the subdivisions precede Township zoning in 1977, staff often looks at the existing established character of the neighborhood to determine if granting a variance is warranted. The applicant has provided a list of homes in their neighborhood that encroach into the front yard setback (see attachment #1 of variance application). These encroachments vary from 21 ft. to 29 ft. from the road right-of-way.

Gray noted that upon site inspection most of the houses in the subdivision are fairly uniform in their setback from the road right-of-way. The intent of the front yard setback is to insure that structures are placed a reasonable distance from property lines and roadways that is proportionate to the intended density and the character of the existing zoning district.

Gray went on to review the request for compliance with variance standards set forth in Section 4.2.3 of the Zoning Ordinance. Basic Condition a) requires that granting of the variance will not be contrary to the public interest or to the intent and purpose of this Ordinance. Compliance with this Condition is up to the discretion of the

Board of Appeals. While the applicant has identified a number of homes in their neighborhood that encroach into the front yard setback a similar distance as the proposed covered porch, the porch would encroach more than most other homes on the same street.

A covered porch is a component of the residential use permitted by right in the R3 (Residential Single Family) zoning district, so granting the variance would not allow a use not already permitted within the district, consistent with Basic Condition b).

There is no reason to believe that granting the variance would have a substantial adverse impact on surrounding property values. Therefore, the request complies with Basic Condition c).

With respect to Basic Condition d), requests of this nature have not been recurrent. Therefore, the request complies with this condition.

Gray went on to review the request for compliance with at least one of the three Special Conditions set forth in Section 4.2.3 of the Zoning Ordinance. There do not appear to be any practical difficulties associated with the subject property. Therefore, the request does not comply with Special Condition a).

Compliance with Special Condition b) is at the discretion of the Board of Appeals. While the proposed setback is generally consistent with some of the other homes in the neighborhood, the question is whether the addition is generally in keeping with the established character of the neighborhood. If so, the Board might find the existing character of the neighborhood constitutes an exceptional condition that does not generally apply throughout the Township in the subject zoning district.

The applicant is able to use the property for single family residential purposes, just like the neighboring properties. The variance is, therefore not necessary to preserve a substantial property right. The request does not comply with Special Condition c).

Chairman LaGrand called for Board questions or comments.

Brief discussion followed regarding the reduction of the original variance request based on the size of the proposed porch.

LaGrand noted that although most of the setbacks in the area are consistent, it does not necessarily appear that way because Pinehurst is a curved road.

Gobbo commented that the request may be consistent with Special Condition b) due to the fact that the applicant's property is located on a corner lot.

Hearing no further questions or comments, Chairman LaGrand invited the applicant to speak.

Tom Clayton, 8346 S. DeWitt Road, DeWitt, MI 48820, representing the applicant, noted that the existing porch extends 5 ½ feet out. Covering the porch would add only an additional 6 inches. This would be necessary to support the proposed roof. There could quite possibly be additional homes that encroach into the front yard setback. However, when measuring other homes in the area he measured the structures that visibly appeared to encroach into the front yard setback.

LaGrand questioned if Clayton was in agreement with staff regarding the amendments to the original request which would reduce the required amount of the variance.

Clayton stated he has discussed this with staff and agrees that there was a misunderstanding and the required variance is actually for 8.2 feet.

Gobbo questioned if the existing porch would be torn off and a new one be built. If so, has the applicant considered other alternatives such as placing the porch on either the side or rear of the house?

Clayton advised that the applicant wishes to keep the front porch rather than relocate it. Placing the porch elsewhere would involve placing it off of a bedroom or three season room. Further, the existing front porch is in need of repair. In closing, Clayton advised that there are existing water problems in the basement. Constructing a new flooring for the porch would allow easier access to the foundation of the house for inspection or repair.

Chairman LaGrand called for public comments.

- C. Close Public Hearing. **Hearing no public comments, Chairman LaGrand declared the Public Hearing closed.**
- D. Discussion and possible action by Board of Appeals.

Musselman stated that there is a good basis for requiring setbacks in subdivisions. However, this can be very restrictive for the older communities that were platted prior to these regulations being in place. He does not feel granting approval of this

variance would set a precedent in the applicant's neighborhood. He noted that the surrounding neighbors have expressed support in granting of the variance. Lastly, other alternatives for relocating the porch do not seem viable.

Brief discussion followed regarding revisiting the establishment of an ordinance amendment subcommittee for the purpose of reviewing current setback standards.

**Musselman moved that Appeal 05-770007, to allow the construction of a 6-foot by 25-foot covered front porch that would encroach 8.2 feet into the front setback of the property located at 15090 Pinehurst Drive, be approve. Approval is based on a finding that the request meets all four Basic Conditions and Special Condition b) listed in Section 4.2.3 of the Zoning Ordinance. Supported.**

**ROLL CALL vote on motion:**

**AYES: 5    NAYS: 0    ABSENT: 2 (Glynn, Reese)**

**MOTION CARRIED.**

## **II. Election of Officers for 2006.**

Chairman LaGrand opened the floor for nominations for the office of Chairman.

Gobbo nominated Christopher LaGrand for the office of Chairperson.

**Hearing no further nominations, Gobbo moved to close the nominations for the office of Chairman and cast a unanimous ballot for Christopher LaGrand for Chairman. Supported.**

**ROLL CALL vote on motion:**

**AYES: 5    NAYS: 0    ABSENT: 2 (Glynn, Reese)**

**MOTION CARRIED.**

Chairman LaGrand opened the floor for nominations for the office of Vice Chairperson.

Musselman nominated Steve Gobbo for the office of Vice Chairperson.

**Hearing no further nominations, Musselman moved to close the nominations for the office of Vice Chairman and cast a unanimous ballot for Steve Gobbo for Vice Chairman. Supported.**

**ROLL CALL vote on motion:**

**AYES: 5    NAYS: 0    ABSENT: 2 (Glynn, Reese)**

**MOTION CARRIED.**

Chairman LaGrand opened the floor for nominations for the office of Secretary.

Schlegel nominated Robert Reese, III for the office of Secretary.

**Hearing no further nominations, Gobbo moved to close the nominations for the office of Secretary and cast a unanimous ballot for Robert Reese, III for Secretary. Supported.**

**ROLL CALL vote on motion:**

**AYES: 5    NAYS: 0    ABSENT: 2 (Glynn, Reese)**

**MOTION CARRIED.**

**The Zoning Board of Appeals Officers for the year 2006 are:**

**Christopher LaGrand, Chairman**

**Steve Gobbo, Vice Chairman**

**Robert Reese, III, Secretary**

**PUBLIC COMMENTS ON NON-AGENDA ITEMS:**        None.

**TRUSTEES REPORT:**

Trustee Musselman gave a brief report on business conducted and action taken at the regularly scheduled meeting of the Board of Trustees held on March 27, 2006 and April 10, 2006.

**DISCUSSION:**        None.

**ADJOURNMENT:    Gobbo moved to adjourn the meeting at 7:30 p.m. Supported.**  
**MOTION CARRIED.**

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Linda K. Parkinson, Recording Secretary

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Robert Reese, III, Secretary