

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MICHIGAN 48820
BOARD OF APPEALS MINUTES
WEDNESDAY, June 20, 2007**

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 Secretary Reese.

MEMBERS PRESENT: Christopher LaGrand, Robert Reese, III, Dale Glynn, Andrew Richards, Steve Gobbo and Trustee Seeger.

MEMBERS ABSENT: None.

VACANT: 1 (Schlegel)

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

APPROVAL OF MINUTES: **Glynn moved to approve the minutes of the May 16, 2007 meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: The following correspondence was received and noted by the Zoning Board of Appeals:

1. Resignation Letter – Shannon Schlegel

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

I. Appeal 07-770003 – From Dawn and William Blakemore, requesting a 9 ft. 6 in. variance to the required 30 ft. side yard setback requirement set forth in Section 5.18, Schedule of Regulations of the Zoning Ordinance. If approved, the applicant would be allowed to construct a 15'x18' addition to the east side of the existing dwelling that would be 20 ft. 6 in. from the east property line on property located at 1231 Calumet Drive, DeWitt, Lot #25 of Northway Hills Subdivision, in Section 9 of DeWitt Charter Township.

A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:03 p.m.**

B. Administrative Comments/Applicant/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated June 15, 2007 pointing out the location of the site. The subject property is currently zoned R6 (Residential Single Family). This is the highest density zoning classification for residential zoning. The surrounding zoning consists of R6 (Residential Single Family) to the north, south, and west, and M-3 (Multiple Residential) to the east.

The applicant is requesting a variance of 9.5 feet to the required 30 foot minimum side yard setback. Gray noted that the property is located on a corner lot. Therefore, the Zoning Ordinance requires any side yard that abuts a street must meet the equivalent front yard setback. If approved, the proposed 15 ft. x 18 ft. addition would be 20.5 feet from the right-of-way of Isle Royale Drive.

Gray briefly reviewed the request for compliance with variance standards set forth in Section 4.2.3 of the Zoning Ordinance. He advised that Basic Condition a) states that granting the variance can not be contrary to the public interest or the intent of the Ordinance. The applicant has indicated that the reason for the variance is that the corner lot is subject to two front setbacks. Staff noted that this condition is true of all corner lots in the Township. Therefore, without some demonstration that the variance is necessary to overcome some unique condition on the lot, it is difficult for staff to recommend that this condition has been met.

The proposed addition would be a component of the residential use permitted by right in the R6 (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).

Requests of this nature have not been so recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical, consistent with Basic Condition d).

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. Special Condition a) states that a practical difficulty or unnecessary hardship must exist which prevents the applicant from carrying out the strict letter of the Zoning Ordinance. There does not appear to be any practical difficulties associated with the subject property. Denial of the variance would still allow the applicant to use the

property for residential purposes, as it has been in the past.

With respect to Special Condition b), compliance with this condition is at the discretion of the Board of Appeals. As previously mentioned, the applicant indicates that the variance is necessary because the lot is on a corner and subject to two front yard setbacks. That condition alone does not make the lot unique. To establish this as a basis for a variance, it would be necessary to demonstrate that the condition affects this lot in a unique way that prevents the applicant from enjoying the same rights as others in the vicinity. Gray noted that the developer of the subdivision attempted to compensate for the increased setbacks on a corner lot by increasing the size of the lot.

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

In closing, Gray advised that without some exceptional circumstance, the conditions listed in the Zoning Ordinance for approval of the appeal are not met. Therefore, staff recommends denial of the request.

Gobbo questioned if it would be possible for the applicant to construct an addition to the rear of the home.

Gray advised that the applicant does not have many options. The home itself sits 50 ft. from the rear property line. The minimum rear yard setback is 45 ft.

LaGrand asked staff for clarification as to other options available to the applicant.

Gray advised that there is some area available on the northeast corner of the property. However, this is near the garage, rather than living space. Gray noted that most of the homes in the development are built very close to existing setback lines. And, likewise are restricted from constructing further additions.

Gobbo questioned if the proposed addition would cause sight distance problems for traffic on Isle Royale Drive.

Gray advised that he did not believe the proposed addition would cause site distance issues. However, if constructed as proposed, it would be allowed to be closer to Isle Royale Drive than any of the other homes in the development.

Hearing no further questions from the Board, Chairman LaGrand invited the applicant to speak.

Dawn Blakemore, applicant, 1231 Calumet Drive, DeWitt, MI 48820, stated that a 10 ft. by 10 ft. deck exists on the rear of the dwelling. Prior to applying for a variance they have explored all options for placing an addition onto their existing home. She feels the proposed addition to the east side of the dwelling is the most reasonable and aesthetically pleasing option. In addition, it would not block the view of traffic. In addition, the surrounding neighbors have expressed no concerns.

LaGrand questioned if the applicant had obtained written documentation from surrounding neighbors in support of the variance request.

Blakemore advised that she did not. However, she would be willing to do so if it would make a difference in the Board's decision.

LaGrand questioned if the Planning Department received any information from surrounding property owners regarding this request.

Gray advised that the Planning Department had received no calls or correspondence regarding the appeal.

Blakemore stated that she believes a neighbor on Ontonagon Drive had been granted a variance for a rear addition. She attempted to contact them but was unsuccessful.

Gray advised that he had reviewed records back to 1990 and was unable to find a variance file for property addressed on Ontonagon Drive.

Chairman LaGrand called for public comments.

- C. Close Public Hearing. **Hearing no public comment, Chairman LaGrand declared the Public Hearing closed at 7:16 p.m.**
- D. Discussion and possible action by Board of Appeals.

Gobbo stated that there has been past discussion regarding the Township reviewing whether current setback requirements should be amended.

Gray advised that the discussion did not involve front yard setbacks. Staff was examining the rear yard setback requirements due to the frequency of existing decks being converted into covered or enclosed living space.

There was brief discussion regarding the distance between the applicant's home and surrounding homes.

Gobbo noted that the applicant's home is located in the R6 (Residential Single Family) zoning district. This is the Township's highest density residential zoning district. The record has already reflected that the applicant's lot was configured to allow it to meet the front yard setback on the north and east sides.

Gobbo moved that Appeal 07-770003, to allow a variance of 9.5 feet to the 30 foot side yard setback requirement and permitting the construction of a 15 foot by 18 foot addition on the property located at 1231 Calumet Drive that would be 20.5 feet from the right-of-way of Isle Royale Drive, be denied. Denial is based on a finding that the request does not meet all four of the Basic Conditions or the Special Conditions listed in Section 4.2.3 of the Zoning Ordinance. Supported.

Seeger stated that it is unfortunate that the applicant's home is located in a high density residential zoning district where the existing homes take up most of the building envelope. However, he feels it is important to preserve the intended character of the residential development as currently set forth in the Zoning Ordinance.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 0 VACANT: 1 (Schlegel)

MOTION CARRIED.

Lengthy discussion followed regarding the fact that the applicant can certainly entertain alternative options to bring before the Zoning Board of Appeals.

E. Possible Certification of Decision.

Glynn moved to approve the Certification of Decision for Appeal 07-770003. Supported. MOTION CARRIED.

II. Appeal 07-770004 – From David W. Miller, requesting a variance of 136 sq. ft. to the required 1,200 sq. ft. maximum accessory space allowed in the R5 (Residential Single and Two Family) zoning district set forth in Section 5.18, Schedule of Regulations of the Zoning Ordinance. If approved, the applicant would be allowed to replace an existing 14' x20' shed and construct a 26' x36' pole barn on property located at 15866 Mayfield Drive, Lansing, Lot #49 of Clinton Village Subdivision, in Section 27 of DeWitt Charter Township.

A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:26 p.m.**

B. Administrative Comments/Applicant/Public Comments.

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated June 13, 2007 pointing out the location of the subject property. The request is for a 136 sq. ft. variance to the required 1,200 sq. ft. maximum accessory space allowed in the R5 (Residential Single and Two Family) zoning district to allow the applicant to replace an existing 14'x20' shed and construct a 26'x36' pole barn.

The surrounding zoning consists of A (Agricultural) to the east and R5 (Residential Single and Two Family) to the north, south, and west. The surrounding land use consists of single family residential to the south and west, and vacant to the north and east.

Gmazel went on the review an aerial view of the subject site noting the location of the existing home with an attached garage and a deteriorating shed in the southwest corner of the property. If the variance is approved, the applicant would be required to demolish the existing shed, and replace it with a 26'x36' pole barn located nearer to the house. This would result in a total of 1,336 sq. ft. of accessory space.

Gmazel stated that twenty eight (28) notification letters were sent out to the public. One response has been received in writing, in support of the variance.

Gmazel further advised that the intent of the accessory space requirement is to assure that structures are proportioned to their respective parcel size and intended density of the zoning district.

Gmazel went on to review the request for compliance with variance standards set forth in Section 4.2.3 of the Zoning Ordinance. She advised that Basic Condition a) states that granting the variance can not be contrary to the public interest or the intent of the Ordinance. Section 5.18 of the Zoning Ordinance limits lot coverage to 30% in the R5 zoning district, and in this case, the lot coverage, including the house and all existing and proposed accessory uses will be 3% of the lot. Therefore, the request complies with this condition.

The pole barn is a component of the residential use permitted by right in the R5 (Residential Single and Two 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 significant adverse impact on surrounding property values. Therefore, the request complies with Basic Condition c).

Requests of this nature have not been so recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical, consistent with Basic Condition d).

Gmazel 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. Special Condition a) states that a practical difficulty or unnecessary hardship must exist which prevents the applicant from carrying out the strict letter of the Zoning Ordinance. The request does not comply with Special Condition a).

With respect to Special Condition b), the site presents a unique circumstance with regard to lot size. The applicant's property is approximately 9 times the minimum required 10,000 square foot lot size for the R5 zoning district. Whether this represents a circumstance that rises to the level of "exceptional" is up to the discretion of the Board of Appeals. It should be noted that past variances of this nature have been approved where the lot size is notably larger than the minimums required.

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

In closing, Gmazel stated that she would be glad to answer any questions that the Board may have.

Brief discussion followed regarding the placement of the proposed pole barn.

Gobbo questioned the possibility of the subject site being divided at sometime in the future.

Gmazel stated that there does seem to be enough lot area and perhaps lot frontage to meet land division requirements. Setback requirements may create some building restrictions.

Gray noted, if the parcel were split, each lot would still be more than an acre. This is more than 4 times the minimum lot size for the R5 zoning district.

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

Kori Sperling, representing the applicant, 1204 Pierce Road, Lansing, MI 48910, stated she is the applicant's daughter. She advised that the neighbors have no objections to the request. With regard to placement of the proposed pole barn, Sperling advised that the entire front yard is muck and it would not be conducive to building a structure in that area.

Hearing no questions of the applicant, Chairman LaGrand invited public comments.

- C. Close Public Hearing. **Hearing no public comments, Chairman LaGrand declared the Public Hearing closed at 7:35 p.m.**
- D. Discussion and possible action by Board of Appeals.

Glynn moved that Appeal 07-770004, to allow a variance for the construction of a 26 foot by 36 foot pole barn located at 15866 Mayfield Drive that would be 136 square feet over the maximum allowed accessory space of 1,200 square feet in the R5 (Residential Single and Two Family) zoning district, be approved. 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: 6 NAYS: 0 ABSENT: 0 VACANT: 1 (Schlegel)

MOTION CARRIED.

- E. Possible Certification of Decision.

Glynn moved to approve the Certification of Decision for Appeal 07-770004. Supported. MOTION CARRIED.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Seeger gave a brief report on business conducted and action taken at the regular meetings of the Board of Trustees held on May 29, 2007 and June 11, 2007.

DISCUSSION:

Brief discussion followed regarding the recently completed Open Space Ad Hoc Committee Report.

Several Board members commended Shannon Schlegel for her years of service on the Zoning Board of Appeals and stated that she will be missed.

**ADJOURNMENT: Gobbo moved to adjourn the meeting at 7:56 p.m. Supported.
MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Robert Reese, III, Secretary