

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
Rescheduled REGULAR MEETING August 15, 2019
5777 Vinton Road, Williamsburg, Michigan

Call to order by Chair at 7:05 p.m.

Roll Call: Bowen, Hooper, Lake, Alternate Shaffer

Absent: Halstead, Benak

Also in attendance: Recording Secretary MacLean, Leslie Meyers of The Planning Team

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None

Approval of Minutes:

Motion to approve meeting minutes of April 25, 2019, by Bowen, second by Lake. On voice vote, all in favor.

Motion carried.

Scheduled Public Hearing:

- A. Public Hearing on Appeal #19-005. Dennis and Barbara Reese, 11364 Trails End North, Williamsburg, MI 49690, are requesting a dimensional variance. Parcel is in the R-1 Zoning District. Parcel #28-13-103-004-10.
 - a. Open Public Hearing on Appeal #19-005 at 7:08 p.m. Dennis and Barbara Reese, 11364 Trails End North, Williamsburg, Michigan, parcel #28-13-103-004-10, requesting a dimensional variance of 10' to reconstruct the home.
 - b. Zoning Administrator Presentation: The legal notice of public hearing was posted in the Record Eagle. Notices were also sent out to property owners within 300 ft. of the property.
Summary of staff report:
The request for variance is based on (1) The home was built prior to adoption of the zoning ordinance and does not meet current setback requirements of 50'. (2) The owner's intent is to convert the cottage into their primary residence and place the new home within the same footprint – this will allow the line of sight from the home to remain the same.
The plan is to remove the existing detached garage and add on to the existing home. The home will become two stories, but the current non-conforming portion will remain single story and will not encroach further than currently exists. Therefore, the owners will require a variance to proceed.
 - c. Petitioner Presentation: Dennis and Barbara Reese, 3898 Baulistrol Dr., Okemos, Michigan. Eric Mansuy (Designer), 1010 Rose St, Traverse City, Michigan. Have kept the neighbors in consideration. Had to work around wetlands and existing septic. Currently single story and will continue to be single story on the non-conforming area. Will need to do significant soil work to get it up to code for the foundation. New foundation will be where the old foundation is currently. Situated to maintain access for emergency vehicle access to the lake.
Bowen: Existing foundation or new foundation? Will all need to be rebuilt to meet existing building code. Eric: If the foundation can be saved, we will do that. It depends on how the foundation is constructed, if it meets current code.
Hooper: Could you move it back? Eric: The wetland is the issue and the septic.
Hooper: Sounds like you are tearing the whole thing down, not saving any of it. Eric: we are still in the investigation stages of determining the foundation viability. If the foundation is viable it will be kept. If not it has to be built to code.
Hooper: The goal of the ZBA is to not have non-conforming structures. A portion of the foundation must remain or it is a complete redo and must meet current zoning set backs.

Eric: Once the investigation is done on the foundation we will know if it needs to be underpinned or completely re-done. We are not looking to add anything additional to the non-conformity and to bring the rest up to code.

Hooper: What about the existing deck? It is non-conforming and will be repaired / replaced as it is.

Eric: If the foundation has to be left on that corner we will leave it.

Lake: I thought it was not going to be completely torn down.

Eric: We will keep the foundation if we have to.

d. Report on Site visits:

Bowen: I looked at it and I understand it. Concerned about erosion. There is a reason there are setbacks.

Hooper: Looked through the ordinance. There is nothing about the percentage of the building that needs to be kept. As long as they keep that part of the foundation.

Lake: They can fix the foundation.

Hooper: If they keep the part of the foundation and they repair the deck it is within the right of this board to allow.

e. Correspondence: Haggard Plumbing and Heating has no problem with granting the variance.

f. Public speaking in favor of appeal Barbara Reese, thank you for calling this special meeting. Obviously, I have an emotional stake in this. This is where we want to be and really want to make this our community. Your consideration is very much appreciated.

g. Public speaking in opposition of appeal: None.

h. Anyone wishing to speak on the appeal None.

i. Close Public Hearing on Appeal #19-005 at 7:46 p.m.

j. Discussion of appeal:

Hooper: My only caveat would be that the corner of the foundation has to stay. If you tear it out it is a complete rebuild.

Hooper: It is a rebuild of the non-conforming part, no additional variance requested beyond what is currently there.

Bowen: Everything that is already non-conforming must come to the ZBA for approval.

Shaffer: I do see the wetlands to the south, would it be possible to fill in the wetland? Barbara: We have had it checked and that is a DNR issue. It is not a good option to fill in wetland. This, we feel, is the least invasive path to take.

k. Findings of Fact:

To obtain a nonuse (dimensional) variance, the applicant must show that a practical difficulty exists on the property by demonstrating that the applicable following review standards are met:

- 1. Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance.**

The property, because of the wetlands, has unique characteristics. The Master Plan and zoning ordinance encourage respect of property rights, promoting orderly development and promoting and protecting property values. This variance allows for this.

To be determined by the Zoning Board of Appeals. YES NO

- 2. Granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.**

The applicant proposes to continue the use as residential.

To be determined by the Zoning Board of Appeals. YES NO

- 3. Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.**

Granting the variance will allow the applicant and properties within the vicinity the opportunity to continue their use of the property as has historically been enjoyed, both structurally and visually.

To be determined by the Zoning Board of Appeals. YES NO

- 4. There are practical difficulties on the site which unreasonably prevent the owner from using the property for a permitted purpose without presenting an excessive burden and the practical difficulty not resulting from any act of the applicant.**

Wetlands. The neighboring properties have been built in such a way that they all "naturally align." If the 50' setback is applied to the Reese property they will set behind the site line of the home to the north.

To be determined by the Zoning Board of Appeals. YES NO

- 5. The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by the other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety, or welfare.**

If granted, the variance will allow for continuance of the rights currently enjoyed. There will be no adverse impacts on neighboring properties.

To be determined by the Zoning Board of Appeals. YES NO

- 6. The requested variance is the minimum necessary to permit reasonable use of the land.**

If granted, the variance will allow for the alignment of the homes to continue.

To be determined by the Zoning Board of Appeals. YES NO

7. The practical difficulty is not self-created.

To be determined by the Zoning Board of Appeals. YES NO

Determining the answers to the seven (7) review standards should give us a well-supported foundation in regards to approving or denying the requested variance; as well as a well-supported foundation in case of an appeal to Circuit Court. Decisions related to zoning are rarely easy, and they are not usually a matter of right and wrong. The duties of the Zoning Board of Appeals require a balancing of the needs of the community and the rights of a property owner.

- l. Conclusion: Grant the variance with the stipulation that the corner foundation of the non-conforming structure stay.
- m. Reasons for Conclusion: Because if the whole thing is torn down it becomes a new build.
- n. Based on the findings of fact as presented.
- o. Decision: Grant variance.
- p. Motion by Lake, second by Shaffer to grant the request for a non-use variance for a waterfront setback reduction of 10' for a distance of 15' to reconstruct a new home within the existing footprint on ZBA Appeal #19-005 as long as the southeast corner of the foundation stays intact.
Roll call vote: Hooper-Yes; Shaffer-Yes; Lake-Yes; Bowen-Yes. Motion carried.

Decision form and Resolution signed by all present members.

Other Matters to be Reviewed by the Zoning Board of Appeals: None.

Correspondence Received: None.

Planning Commission Representative report: Hooper: Working on an ordinance for storage building on vacant lots. Apparently the board has said no. Disappointed that it did not go through but we will get on with the next thing. Review of the Master Plan is next on the agenda.

Township Board Representative report: Benak: NA

Zoning Administrator report: The ZBA thanks Leslie Meyers for helping. Meyers recommends Hooper take the non-conforming issue to the PC.

Comment: None.

Next regularly scheduled meeting will be September 26, 2019, if it is necessary.

Adjourned at 8:18 p.m.

Respectfully submitted by
Recording Secretary
Lois MacLean