

**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**Agenda for Regular Meeting on Thursday, September 23, 2021**  
**7:00 p.m. at the Whitewater Township Hall**  
**5777 Vinton Road, Williamsburg, MI 49690**  
**Phone 231-267-5141/Fax 231-267-9020**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Set/Adjust Agenda
5. Declaration of Conflict of Interest
6. Approval of Minutes of February 25, 2021
7. Scheduled Public Hearing case ZBA 2021-01, Robert Rauch-owner, Robert Rieck-applicant
  - a. Open Public Hearing
  - b. Zoning Administrator Presentation
  - c. Petitioner Presentation
  - d. Report on Site Visit
  - e. Correspondence
  - f. Public Speaking in Favor of Appeal
  - g. Public Speaking in Opposition to Appeal
  - h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented
  - i. Close Public Hearing
  - j. Discussion of Appeal
  - k. Findings of Fact
  - l. Conclusion
  - m. Reasons for Conclusion
  - n. Decision
  - o. Motion
8. Other Matters to be Reviewed by the Zoning Board of Appeals
  - a. Correspondence Received
  - b. Zoning Board of Appeals Members
9. Report of Planning Commission Representative – None assigned
10. Report of Township Board Representative – None assigned
11. Report of Zoning Administrator
12. Training and Training Opportunities
13. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141.

**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes for Regular Meeting on Thursday, February 25, 2021**  
**Via Zoom meeting**  
**7:00 p.m. at the Whitewater Township Hall**  
**5777 Vinton Road, Williamsburg, MI 49690**  
**Phone 231-267-5141/Fax 231-267-9020**

Call to Order by Chair at 7:04 p.m.

Roll Call: Via Zoom: Bowen in Williamsburg

In Person: Lake, Garza, Alternate Shaffer,

Absent: No PC Rep or Board Rep assigned

Set/Adjust Agenda

Declaration of Conflict of Interest – None

Public Comment - None

Approval of Minutes:

MOTION by Lake, second by Shaffer, to approve minutes of June 25, 2020. Roll call vote.

Lake-yes; Garza-yes; Shaffer-yes; Bowen-yes. Motion carried.

Other Matters to be reviewed by the Zoning Board of Appeals

a. Correspondence Received - None

b. Resolution #ZBA21-01, 2021/20212 Regular Meeting Schedule

MOTION by Bowen, second by Shaffer to adopt Resolution #ZBA21-01, Meeting Schedule.

Roll call vote: Garza-yes; Lake-yes; Shaffer-yes; Bowen-yes. Motion carried.

c. Review of Zoning Board of Appeals By-laws.

MOTION by Shaffer second by Bowen to leave by-laws the way they are.

Roll call vote: Lake-yes; Shaffer-yes; Bowen-yes; Garza-yes. Motion carried.

d. Election of Officers, Chair, Vice Chair and Secretary

Lake nominates Garza as Vice Chair. Garza accepts.

MOTION by Bowen, second by Shaffer to elect Garza as Vice Chair.

Roll call vote: Shaffer-yes; Bowen-yes; Garza-yes; Lake-yes. Motion carried.

MOTION by Shaffer, second by Lake to keep Bowen as Chair and Lake as Secretary.

Roll call vote: Bowen-yes; Garza-yes; Lake-yes; Shaffer

Report of Planning Commission Representative, Not Available

Report of Township Board Representative, Not Available

Report of Zoning Administrator, Hall: 2020 Annual report completed. We have been fortunate to head off any concerns and have not had any variance request. Hall will get in the habit of sending out emails to everyone. There are trainings available throughout the year and he will keep everyone informed.

MTA Annual Conference is coming up in April. Contact the Clerk to get registered if you are interested.

Public Comment: None

Comments: Lake: Proud to be part of this ZBA. People are interested and everyone works well together.

Thank you for the opportunity to work together.

Garza: Regarding Zoom audio, if you wear a headset and microphone the people can hear more clearly.

Maybe we can get a monitor for the in-person attendees to be able to see. Audio and visual are important.

Bowen: Hope we have a good year going forward and appreciate working with everyone. Thank you.

Next regularly scheduled meeting will be February 28, 2020, if it is necessary.

Adjournment: 7:35 p.m.

Respectfully submitted  
Recording Secretary  
Lois MacLean

DRAFT



# WHITEWATER TOWNSHIP



5777 Vinton Road, PO Box 159 • Williamsburg, MI 49690 • PH (231) 267-5141 Fax (231) 267-9020

Case No. 23A 2021 01 Date Rec. 08/19/2021 Fee: \$250

## Property Information

Date Filed: 8/17/2021  
Tax ID #: 13-135-029-21 Subdivision: N/A Lot #: N/A Zoning District: A1-AG  
Flood Plain: UNKNOWN Property Address: 10800 M-72E WILLIAMSBURG, MI. 49690 Year Property was Acquired: 2011  
Size of Lot: Front 335.94' Rear: 374.26' Side 1: 793.79' Side 2: 787.18'  
Present Use of Property: COMMERCIAL STORAGE Past Variances on Property in Question (Y/N)  
If So State Case No. and Resolution of Appeal: N/A ① OWNER - 8/29/11  
② APPLICANT - PENDING SALE

## Request Information

Request: ☐ Dimensional Variance ☒ Use Variance ☐ Ordinance Interpretation ☐ Appeal Zoning Administrator Decision

Description of Request: REQUEST FOR EXTENSION OF NONCONFORMING USE. SEE ATTACHED NARRATIVE.

Square Feet of Existing Structure to be demolished (if any): NONE

New Structure ☒ (Y) ☐ (N) If So, Size of Proposed Structure (Square Feet): \_\_\_\_\_

New Addition to Existing Structure (Y ☒ (N) ☐ If So, SEE 5 BUILDINGS TOTAL =

Size of Addition: CONCEPT DRAWING Size of Existing Structure 12,800 S.F. Size of Existing Structure + Addition: N/A

Ordinance in Question (if any): \_\_\_\_\_

## Owner/Applicant Information

Owner Name: ROBERT M. RAUCH  
Mailing Address: 10495 DEAL RD. City: WILLIAMSBURG State: MI Zip: 49690  
Phone: (231) 342-8334 Fax: ( ) - E-Mail: dmbf73@gmail.com  
Applicant (if different from owner): ROBERT J. RIECK  
Mailing Address: 355 MEGUZZEE PT. City: ELK RAPIDS State: MI Zip: 49629  
Phone: (231) 313-8926 Fax: ( ) - E-Mail: bob@bobandtarieck.com

REID \$250.00 08/19/2021  
Ch # 1854  
RECEIPT # 23902

To: Whitewater Township Zoning Board of Appeals

Applicant: Robert Rieck

Owner: Robert Rauch

RE: Request for extension of nonconforming use

Subject Property: 10800 E. M72, Williamsburg, MI 49690. Tax ID: 28-13-135-029-21

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The applicant, Robert Rieck, is requesting an extension of nonconforming use of the property located at 10800 E. M72, Williamsburg, MI 49690. Currently, the subject property is zoned A1-Agriculture Zone and has a nonconforming use occurring. Nonconforming: A use which is otherwise not permitted but existed prior to the enactment of a (the) zoning ordinance.

The Whitewater Township Zoning Ordinance in Article IV, Section 4.15, permits the Zoning Board of Appeals (ZBA) to review a request to extend such a nonconforming use and/or structure.

#### **4.15 EXTENSION OF NONCONFORMING USE OR STRUCTURE**

**The extension of any nonconforming use or addition to any nonconforming structure for the purpose of extending such nonconforming use or structure throughout all or a portion of a given lot or parcel of land may be granted by the Zoning Board of Appeals if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.**

Per the attached Site Plan, the applicant wishes to extend the nonconforming use by constructing three 40' X 160' storage buildings.

John Lucsy, the majority surrounding property owner, supports the extension of the nonconforming use.

The highest and best use of the subject property is additional storage buildings. With the existing and proposed storage buildings and improvements, approximately 50% of the parcel will be developed.

The applicant shall keep a green belt/buffer between the highway and the proposed storage buildings.

Personal message from the applicant:

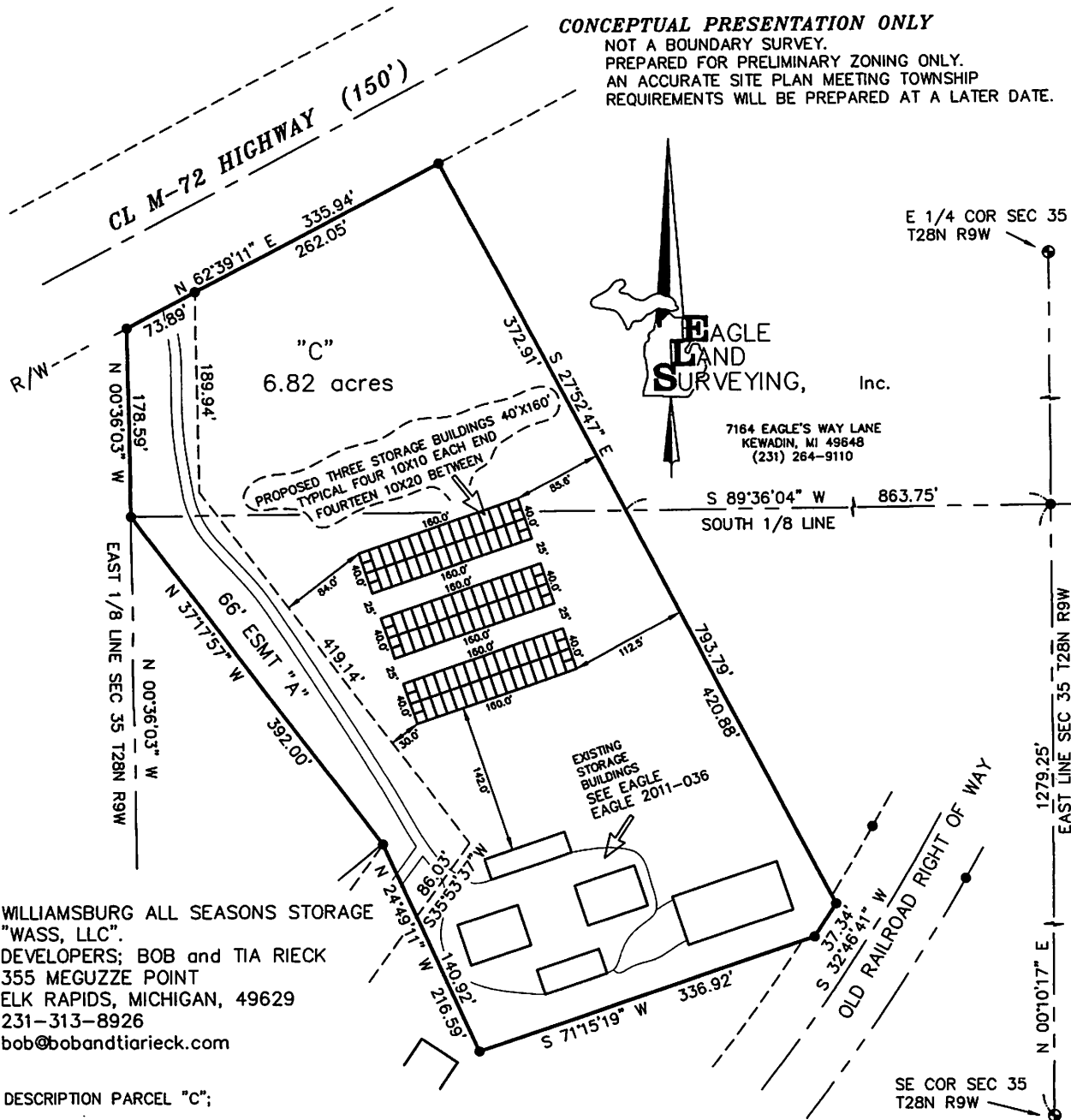
I appreciate your consideration of my request for the extension of the nonconforming use by the construction of three 40' X 160' storage buildings. I am excited to develop the subject property in a manner by which will be of its highest and best use. The existing five storage buildings are not inimical to public health, safety or welfare, particularly with regard to surrounding property owners. Therefore, the extension of the nonconforming use shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.

Thank you,

Robert Rieck

# CONCEPTUAL PRESENTATION ONLY

NOT A BOUNDARY SURVEY.  
PREPARED FOR PRELIMINARY ZONING ONLY.  
AN ACCURATE SITE PLAN MEETING TOWNSHIP  
REQUIREMENTS WILL BE PREPARED AT A LATER DATE.



WILLIAMSBURG ALL SEASONS STORAGE  
"WASS, LLC".

DEVELOPERS: BOB and TIA RIECK  
355 MEGUZZE POINT  
ELK RAPIDS, MICHIGAN, 49629  
231-313-8926  
bob@bobandtiarieck.com

## DESCRIPTION PARCEL "C";

A parcel of land situated in Whitewater Township, Grand Traverse County, Michigan, and more fully described as follows:

That part of the Southeast 1/4 of Section 35, Town 28 North, Range 9 West, described as:

Commencing at the Southeast corner of said section 35; thence North 00°10'17" East along the East line of said section and the centerline of Skegemog Point Road 1279.25 feet to a point on the South 1/8 line of said section; thence South 89°36'04" West along said 1/8 line 863.75 feet to the point of beginning; thence South 27°52'47" East 420.88 feet; thence South 32°46'41" West 37.34 feet; thence South 71°15'19" West 336.92 feet; thence North 24°49'11" West 216.59 feet; thence North 37°17'57" West 392.00 feet to a point on the East 1/8 line of said section; thence North 00°36'03" West along said 1/8 line 178.59 feet to a point on the Southeasterly right-of-way of M-72 Highway, thence North 62°39'11" East along said right-of-way 335.94 feet; thence South 27°52'47" East 372.91 feet to the point of beginning and containing 6.82 acres of land.  
Subject to and together with Easement "A".

Also subject to easements, right-of-ways, reservations and restrictions of record.

SEE EAGLE SURVEY FOR  
LAND DIVISION  
FILE NO 2011-036

SEE MITCHELL SURVEY FOR  
PREVIOUS PARCEL B DESCRIPTION  
FILE NO 92-1473

Scale: 1" = 100'  
0' 50' 100' 200'



NEIL L. WAY 4001028432  
Licensed Surveyor Number: 28432

**EAGLE  
LAND  
SURVEYING, Inc.**

7164 EAGLE'S WAY LANE  
KEWADIN, MI 49648

(231) 264-9110  
FAX: 264-9311  
eaglelandsurvey@aol.com

For: **SITE PLAN ONLY**  
**BOB & TIA RIECK & ROBERT RAUCH**

Part of the SE 1/4 of Sec. 35,  
T28N R9W, Whitewater Twp.,  
Grand Traverse County, Michigan.

Date: Aug. 11, 2021

File No.: 2021-162

Drafted By: NLW

Sheet 1 of 1

Drawn File: 2021-162





**Whitewater Township**  
5777 Vinton Road  
P.O. Box 159  
Williamsburg, Michigan 49690

231-267-5141  
[www.whitewatertownship.org](http://www.whitewatertownship.org)

**STAFF REPORT/Zoning Board of Appeals**  
**Case # ZBA-2021-01**

**1. Applicant(s)**

Applicant(s): Rieck, Robert  
355 Meguzee Point  
Elk Rapids, Michigan 49629

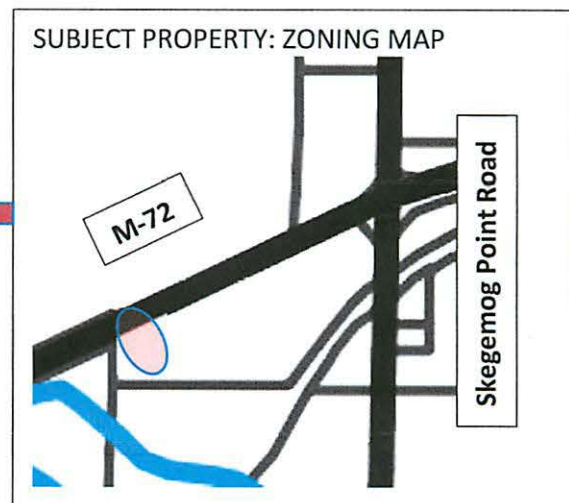
Owner(s): Rauch, Robert  
10495 Deal Road  
Williamsburg, Michigan 49690

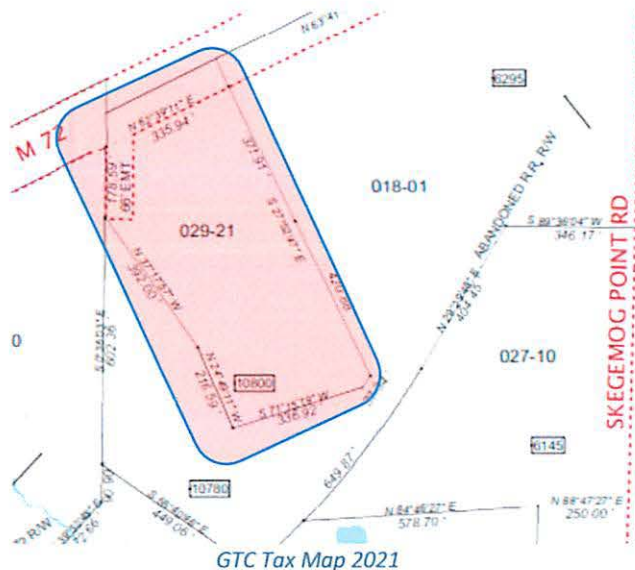
Site Address, 10800 M-72 Highway East, Williamsburg, Michigan 49690  
Parcel ID# 28-13-135-029-21

Property Description – PARCEL C: PART OF SE 1/4 SEC 35  
T28 R9W COM AT SE CNR SEC 35 TH N 00 DEG 10'17" E 1279.25 TH S 89 DEG 36'04" W  
863.75' TO POB TH S 27 DEG 52'47" E 420.88' TH S 32 DEG 46'41" W 37.34' TH S 71 DEG  
15'19" W 336.92' TH N N 00 DEG 36'03" W 1778.59' TH N 62 DEG 39'11" E 335.94' TH S 27  
DEG 52'47" E 372.91' TO POB SPLIT FROM 13-135-029-20 AND 13-135-018-00

Zoned: A1 - Agriculture

Site Plan: Attached





## 2. Development Proposal

### 2.1 Extension of nonconforming use / structures

### 2.2 Action Report – The Applicant is:

1) Requesting that the Whitewater Township Zoning Board of Appeals grant the ability to extend the nonconforming use(s) / structure(s) of the existing Rental Storage Buildings to allow for the construction and use of three (3) 40' X 160' storage buildings and as demonstrated on the attached (applicant provided) site plan in addition to the structures shown and currently existing.

### 2.3 Background:

1. The owner(s) conferred with the Zoning administrator by phone and in person to inquire about the possibility of the subject request to erect additional buildings / structures to extend the existing nonconforming uses and buildings / structures in accordance with:

#### **4.15 EXTENSION OF NONCONFORMING USE OR STRUCTURE.**

The extension of any nonconforming use or addition to any nonconforming structure for the purpose of extending such nonconforming use or structure throughout all or a portion of a given lot or parcel of land ***may be granted by the Zoning Board of Appeals if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners. (emphasis added)***

2. Notices were mailed to the owner(s) of record within 300' of the subject property on September 2, 2021, more than 15 days before the scheduled public hearing.
3. Publication appeared on September 5<sup>th</sup>, 2021 in the Traverse City Record Eagle, more than 15 days before the scheduled public hearing.



**Staff Comment:** *Although not required by the ordinance, staff recommended, and the applicant agreed to submit a basic site plan to aid the Zoning Board of Appeals in their review and decision-making process.*

*One discrepancy note is the easement on the site plan does not match the easement shown on the tax map – this should not be a concern for anyone other than the property owner(s) effected by such an easement.*

### 3. ACTION REQUIRED

#### 3.1 Guidance:

1. The Whitewater Township zoning ordinance offers little guidance in this matter other than the language contained in the text of the applicable zoning ordinance text –

***“...may be granted by the Zoning Board of Appeals if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.”***

2. Michigan Zoning Enabling Act (excerpt): [125.3208 Nonconforming uses or structures]

(2) The legislative body ***may*** provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, ***extension***, or substitution of ***nonconforming uses or structures upon terms and conditions provided in the zoning ordinance***. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses ***may*** be established in the zoning ordinance with different requirements applicable to each class

3. A thorough search of the Whitewater Township zoning ordinance identifies only the terms provided in the text of Article IV, Section 4.15 which state that the Zoning Board of Appeals ‘shall’ determine that such extension ‘**shall not**’ be ***inimical*** to public health, safety or welfare, ***particularly*** with regard to surrounding property owners.

#### **Article II, Section 2.13 – Rules of Interpretation (excerpt)**

1. Terms not defined shall be assumed to have the customary meaning assigned them

Inimical:

1 : **being adverse often by reason of hostility or malevolence** forces inimical to democracy. 2a : having the disposition of an enemy : hostile inimical factions. b : reflecting or indicating hostility : unfriendly his father's inimical glare.

‘malevolence’: 1 : **having, showing, or arising from intense often vicious ill will, spite, or hatred.**

**Recommendation from staff:**

- Your 'only' guidance is the brief text of the zoning ordinance
  - This report provides definitions of words for your convenience that are not defined by the Whitewater Township zoning ordinance
- Staff is of the opinion (based upon the definitions provided) that the Zoning Board of Appeals must find that there is an extreme and almost purposeful intent to do harm by the extension of the nonconforming building / structures, and uses in order to not allow some degree of extension.
- Based upon staffs' opinion, the Zoning Board of Appeals must also make specific findings documenting that the proposed extension will '**not**' be inimical **to public health, safety or welfare, particularly with regard to surrounding property owners...** should an approval be considered.

Respectfully submitted for consideration by the Whitewater Township Zoning Board of Appeals,



Robert (Bob) Hall  
Zoning Administrator