

**DRAFT**  
**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes for Regular Meeting on Thursday, October 24, 2024**  
**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 7:00 p.m.

Roll Call: Bowen, Lake, Garza, Wroubel

No alternates to the ZBA; No Board Representative assigned

Set/Adjust Agenda - Set

Declaration of Conflict of Interest - None

Public Comment not related to public hearing – none

Approval of Minutes:

Motion by Lake, second by Bowen to approve the minutes of February 22, 2024. All in favor.

Motion carried.

Motion by Bowen, second by Lake to approve the minutes of June 13, 2024. All in favor. Motion carried.

Scheduled Public Hearings:

#ZBA-2024-003

a. Open Public Hearing on Appeal #ZBA-2024-03 at 7:05 p.m.

Parcel Id: 28-13-003-006-20, 5950 Cook Road, Williamsburg, Michigan

Applicant/Owners: Denver J. Baker filed for a Use Variance to build a pool deck within the 15' side yard setback along with a tiki bar and a shed, neither of which encroach on the setbacks. Owner is requesting a review of Article 12.11, Schedule of Regulations, requiring the approval of the Zoning Board of Appeals.

Publication in the Record Eagle, notifications and postings were performed at least 15 days prior to the scheduled Special Meeting.

b. Zoning Administrator Presentation: In addition to the information provided in the packet Graber indicates that she had observed a deck constructed along a fence on the property and had a discussion with the owner. The deck was built completely within the side yard setback. No land use permits had been requested for the deck, the tiki bar or the addition to the shed. There is no safety gate at the stairs of the deck. Construction was red tagged by Grand Traverse County as no permits were applied for at the county.

The entire deck and approximately 1' of the pool are within the side yard setback.

c. Petitioner Presentation: In addition to the report in packet Denver notes that a safety gate is planned. He notes that he did not realize he needed a land use permit. He has spoken with Grand Traverse County who has a permit on hold pending the status of this appeal.

The pool is situated to be in compliance with overhead electrical, underground gas line and county septic regulations, thus the one foot encroachment into the setback.

The whole backyard is fenced. To move the pool would mean having to move the overhead electric. Wroubel notes that a smaller pool would fit.

d. Correspondence No correspondence received.

e. Public Speaking on Appeal:

Brenda Baker, neighbor, step-mom in favor of allowing the encroachment into the setback.

Brittney Baker, wife, in favor of the appeal.

Hunter LaPierre, are there any safety concerns regarding emergency services? Bowen responded that that is part of what the ZBA considers.

f. Close Public Hearing on Appeal #ZBA-2024-03 at 7:28 p.m.

g. Discussion:

Lake: The shed that was built has a shower and a hand washing station.

Bowen: There are rules and reasons for the rules. The deck is completely in the setback. More inclined toward leniency for the pool but not the deck.

Wroubel: Views it as an unfortunate situation.

Garza: No permits requested, no regulations reviewed. Allow the pool in the setback by one foot.

h. Findings of Fact: Bowen read through the following and then asked for input:

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.
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.
3. Granting the variance will not cause any significant adverse effect on the property in the vicinity or the zoning district or the Township.
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 is not resulting from any act of the applicant.
5. The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by other properties in the same district, or which may result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety and welfare.
6. The requested variance is the minimum necessary to permit reasonable use of the land.
7. The practical difficulty is not self-created.

Bowen notes empathy for the situation but does not see a special reason that requires the variance or meets the variance requirements. All in agreement.

i. Decision: Initial decision to not allow.

j. **MOTION** by Bowen, second by Wroubel to deny Appeal #ZBA-2024-03, the requested use variance of encroachment into the side yard setback based on the stated findings of fact.

Discussion. Can the ZBA be okay with the pool and require the deck be removed? Yes.

The shed and the tiki bar are not under review in this appeal.

A permit will be required to build the deck in a different location.

Change motion:

**MOTION** on Appeal #ZBA-2024-03 by Bowen, second by Wroubel to approve a one foot encroachment variance for the pool and require the deck be removed within six months.

Roll call vote: Wroubel –yes; Garza – yes; Lake – yes; Bowen – yes. Motion carried.

Graber notes there may be an appeal in November.

ZBA online training available with MSU and a training video is available.

Tip of the Mitt Watershed Council information shared regarding shorelines.

Report of PC Representative, Wroubel: The PC Chair will be the Supervisor so that slot will be open.

Zoning Administrator, Graber: Master Plan has been sent out for public review. Two openings on the ZBA and Board rep positions are currently unfilled. Zoning Ordinance clarification is ready for review. Recommend ZBA members attend November Planning Commission meeting to see the process.

Public Comment: None

Adjournment: 7:55 p.m.

Signing of the Variance Decision Certification Forms.

Respectfully submitted,  
ZBA Secretary  
Therowin Lake