



# WHITEWATER TOWNSHIP

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5777 Vinton Road • P.O. Box 159 • Williamsburg, MI 49690 (231)  
267-5141 • FAX (231) 267-9020

July 27, 2023

Re: August 24, 2023 | Case #ZBA-2023-ZA

Dear Zoning Board of Appeals members -

This packet is divided into 3 (three) primary sections – in an effort to facilitate your review of all applicable documents submitted which are relevant to this case.

- The first section is the Zoning Administrator staff report and supporting documents
- The second section is devoted to the applicant's submittal and supporting documents
- The third section is devoted to the Whitewater Township LEGAL TEAM

Respectfully,

Robert (Bob) Hall  
Whitewater Township – Zoning Administrator

Cc: Property file | 28-13-136-001-02



# WHITEWATER TOWNSHIP



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

Case No. \_\_\_\_\_ Date Rec. 6/20/23 Fee: \$250

*Cash*

*Rec# 024728*

## Property Information

Date Filed: 06/19/2023

Tax ID #: 28-13-136-001-02 Subdivision: \_\_\_\_\_ Lot #: \_\_\_\_\_ Zoning District: A-1 Agricultural \_\_\_\_\_

Flood Plain: No \_\_\_\_\_ Property Address: 6631 Baggs Rd \_\_\_\_\_ Year Property was Acquired: 2021 \_\_\_\_\_

Size of Lot: Front 306.26 \_\_\_\_\_ Rear: 743.60 \_\_\_\_\_ Side 1: 2623.34 (south) \_\_\_\_\_ Side 2: 2619.60 (north) 30 acres \_\_\_\_\_

Present Use of Property: vacant \_\_\_\_\_ Past Variances on Property in Question (Y (N))

If So State Case No. and Resolution of Appeal: \_\_\_\_\_

## Request Information

Request: ☒ Dimensional Variance #1 ☒ Use Variance ☐ Ordinance Interpretation ☐ Appeal Zoning Administrator Decision

Description of Request: We are appealing the May 3, 2023 administrative decision of the Whitewater Township Board that declared parcel 28-13-136-001-02 was non-compliant with Whitewater Township general ordinance #26 Amendment 3, effective 3/19/2011, specifically; section 7 (d) and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approvals and reconsider, reinstate and uphold the original land division approval of zoning administrator #2 seek a variance from the 4:1 depth to width ratio stated in section 7.D of Ordinance No.26 (Land Division Ordinance)

Square Feet of Existing Structure to be demolished (if any): N/A \_\_\_\_\_

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

New Addition to Existing Structure (Y (N) If So,

Size of Addition: \_\_\_\_\_ Size of Existing Structure \_\_\_\_\_ Size of Existing Structure + Addition: \_\_\_\_\_

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

## Owner/Applicant Information

Owner Name: Baggs Partners, LLC \_\_\_\_\_

Mailing Address: 53 Easthampton Ct NE \_\_\_\_\_ City: Grand Rapids \_\_\_\_\_ State: MI \_\_\_\_\_ Zip: 49546 \_\_\_\_\_

Phone: (616) 914-3629 \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: derek.vansolkema@gmail.com

Applicant (if different from owner): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_



**1Whitewater Township**  
5777 Vinton Road  
P.O. Box 159  
Williamsburg, Michigan 49690

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

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**STAFF REPORT/Zoning Board of Appeals**  
**Case # ZBA-2023-ZA**

**1. Applicant(s) / Owner(s)**

Applicant(s)	Baggs Partners, LLC 53 Easthampton Ct NE Grand Rapids, Michigan 49546
Owner(s):	Derek Van Solkema 53 Easthampton Ct NE Grand Rapids, Michigan 49546  Ryan Sheffer 9239 28 <sup>th</sup> St. SE Ada, Michigan 49301
Agent:	Gary Van Solkema 7278 Periwinkle Avenue Grand Rapids, Michigan 49508
Site Address:	6631 Baggs Road, Williamsburg, Michigan 49690 Parcel ID# 28-13-136-001-02 Whitewater Township – Grand Traverse County, Michigan
Zoning District:	A1-Agriculture

Property Description – PARCEL B: PART OF NE 1/4 SEC 36 T28N R9W COM AT NE CNR SEC 36 TH S 00 DEG 00'02" E 1662.89' TO POB TH S 00 DEG 00'02" E 306.26' TH S 89 DEG 27'16" W 600.01' TH S 00 DEG 00'02" E 100' TH S 89 DEG 27'16" W 143.20' TH S 00 DEG 00'02" E 20.31' TH N 89 DEG 08'07" W 1881.13' TH N 00 DEG 21'14" E 743.60' TH N 89 DEG 28'52" E 841.36' TH S 00 DEG 00'02" E 362.09' TH N 89 DEG 28'52" E 1778.24' TO POB SPLIT/COMBINED ON 05/11/2020 FROM 13-136-001-00, 13-136-001-10

## **ACTION BEING REQUESTED OF THE ZONING BOARD OF APPEALS**

**Action being requested by the applicant:** *(from application)*

Description of Request: *We are appealing the May 3, 2023 administrative decision of the Whitewater Township Board that declared parcel 28-13-136-001-02 was non-compliant with Whitewater Township general ordinance #26 Amendment 3, effective 3/19/2011, specifically; section 7 (d) and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approvals and reconsider, reinstate and uphold the original land division approval of zoning administrator #2 seek a variance from the 4:1 depth to width ratio stated in section 7.D of Ordinance No. 26 (Land Division Ordinance)*

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**Note:** The Whitewater Township Board at a special meeting conducted on June 20, 2023 authorized the subject property owner(s) to seek ‘only’ a variance under the provisions of Section VIII of Ordinance No. 26, being the Whitewater Township Land Division Ordinance.

This report only addresses the variance authorized by the Whitewater Township Board

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Section VIII of the Whitewater Township Land Division Ordinance is inserted below for the convenience of applying each applicable condition and commenting on the same.

Section 4.C.4 of the Whitewater Township Zoning Board of Appeals Bylaws reads as follows:

### **Duties of the Zoning Administrator**

4. Prepare written reviews and recommendations, if appropriate, for all requests and development proposals to be considered by the Zoning Board of Appeals.

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### **Section VIII** Variances

Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance the Township Board, or its designee, shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee, may attach reasonable conditions in approving any variance from any provision.

The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

- In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:
  - Staff Comments: **NONE – see narrative addressing conditions provided by the applicant**

- Exceptional or extraordinary circumstances exist such as exceptional topographical *or* physical conditions; *or* that the greater ratio would be reasonably compatible with the surrounding lands. (*emphasis added*)

- Staff Comments: *Staff points out that the language in ‘this condition’ is remarkably similar to the permissive language (in the second paragraph) of Section VII.D of Ordinance No. 26:*

- “The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands”<sup>1</sup>.

- *Staff (when reviewing Land Divisions) relies heavily on not only Ordinance No. 26, but also the Zoning Ordinance, including the definitions. Staff further points out that the word ‘or’ in this ‘condition’ is a conjunction used to allow either alternative to be applied. Article II, Section 2.13(6) of the Whitewater Township Zoning Ordinance (excerpt):*

6. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions or events, the terms “and,” “or,”

“either ... or,” such conjunction shall be interpreted as follows:

A. “And” denotes that all the items, conditions, provisions or events apply in combination.

B. “Or” indicates that the items, conditions, provisions or events may apply individually or in any combination.

- *The original review of the application and decision to create the subject parcel (Parcel #28-13-136-001-02) in May of 2020 was made based upon the ZA’s interpretation that the applicant did demonstrate that there were exceptional topographic or physical conditions with respect to the parcel. There was a purposeful intent by the applicant to separate the forested area at the southwestern corner of the subject (parent) property and to include the most unsuitable portion (soils and topography) of the parent parcel into a single parcel and to ‘divide’ it from the more suitable property to the north, historically used for agricultural crops. In addition to a personal site visit, research utilizing the Grand Traverse County GIS tax mapping and soils viewer, as well as Michigan Department of Environment, Great Lakes, and*

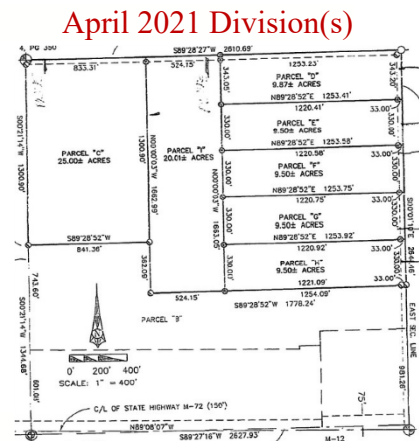
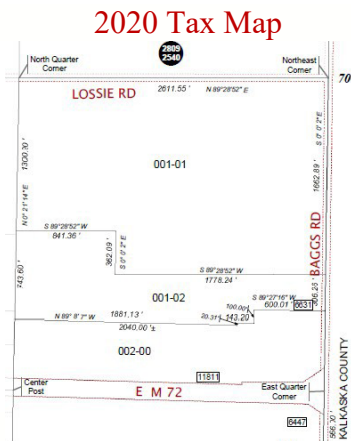
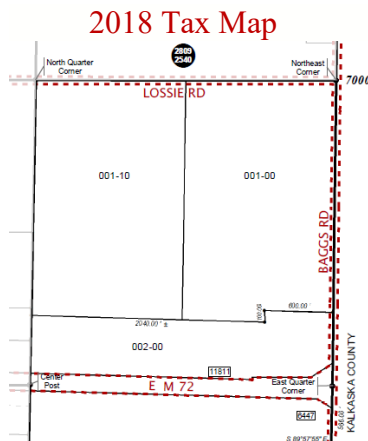
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<sup>1</sup> Whitewater Township Land Division Ordinance – Ordinance No. 26

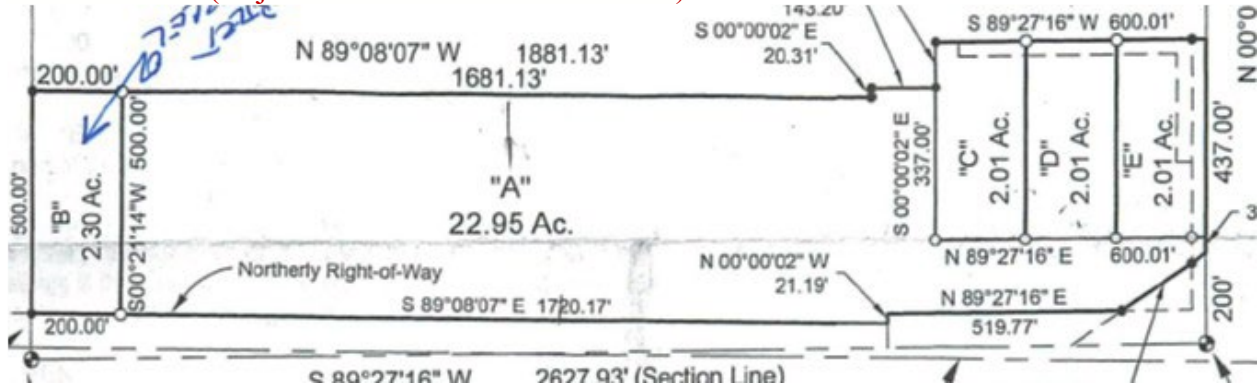


*Energy (“EGLE”)Wetland Inventory Maps was also performed.*

- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
  - Staff Comments: *A 6:1 depth-to width ratio is the most reasonable ratio for the parcel due to the nature of the soil and forest topography. The conformance to a 4:1 depth-to-width ratio would likely have resulted in a small land locked and forested area. The greater depth-to-width ratio allowed for access to the forested rear area of the parcel from a public road, preventing the unreasonable creation of a small landlocked parcel.*
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
  - Staff Comments: *The subject property (created in May of 2020) was the first of multiple divisions that have been approved in the immediate vicinity. Land Use Permits have been issued for the development of 4 (four) new dwellings and a horse barn on 5 (five) of the additional 10 (ten) new parcels that have been subsequently approved as part of the former Morrison Orchards property. Additionally, at least 4 (four) new parcels have been created, and two Land Use Permits issued for property similarly situated and adjacent (south) of the subject property, being parcel #28-13-136-002-00. (see image top of page #5)*



Parcel #002-00 (Adjacent Land Division Illustration)

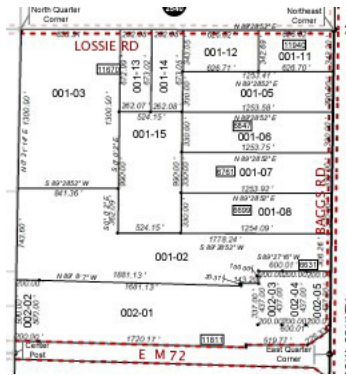


Current Grand Traverse County GIS Imagery



*Staff notes that the original division evidenced the intent to locate the “problematic” forested area, wetland, and poorer soils into one parcel, maintaining the remainder for efficient division. This was a positive development for the surrounding area as it permitted additional divisions. At this point in time, development of the surrounding property, property values and the use and enjoyment of property in the immediate area has progressed according to that vision and at a rapid pace since May of 2020. Staff has observed no adverse impacts to the surrounding area. Rather it appears to have proceeded forward as envisioned consistent with the initial division.*

2022 March Board of Review Tax Map



- Health, safety and welfare will not be compromised.
  - Staff Comments: *A 6:1 depth-to-width ratio promotes the public welfare by creating access to the parcel, especially the portion of the parcel at the rear. Access to this portion of the property prevents additional unusable, landlocked parcels in this area. It furthers the viable use of property for current and future uses by ensuring accessibility. Public health and safety are not compromised by the division of the parcel.*
- The requested variance is the minimum variance necessary to permit reasonable use of the land.

Staff Comments: *If the parcel had a 4:1 depth-to-width ratio, it would have a high proportion of inaccessible and unusable land due to the presence of wetlands and a forested area. A 6:1 ratio allows for the parcel to be available for productive access and use. It further benefitted the surrounding area by permitting additional conforming divisions and is a reasonable division for this parcel.*

(Section VIII continued)

Further, in the event that a variance is granted under this Section, said variance and any conditions, if applicable, shall be recorded with the Grand Traverse County Register of Deeds by the seller and/or proprietor.

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

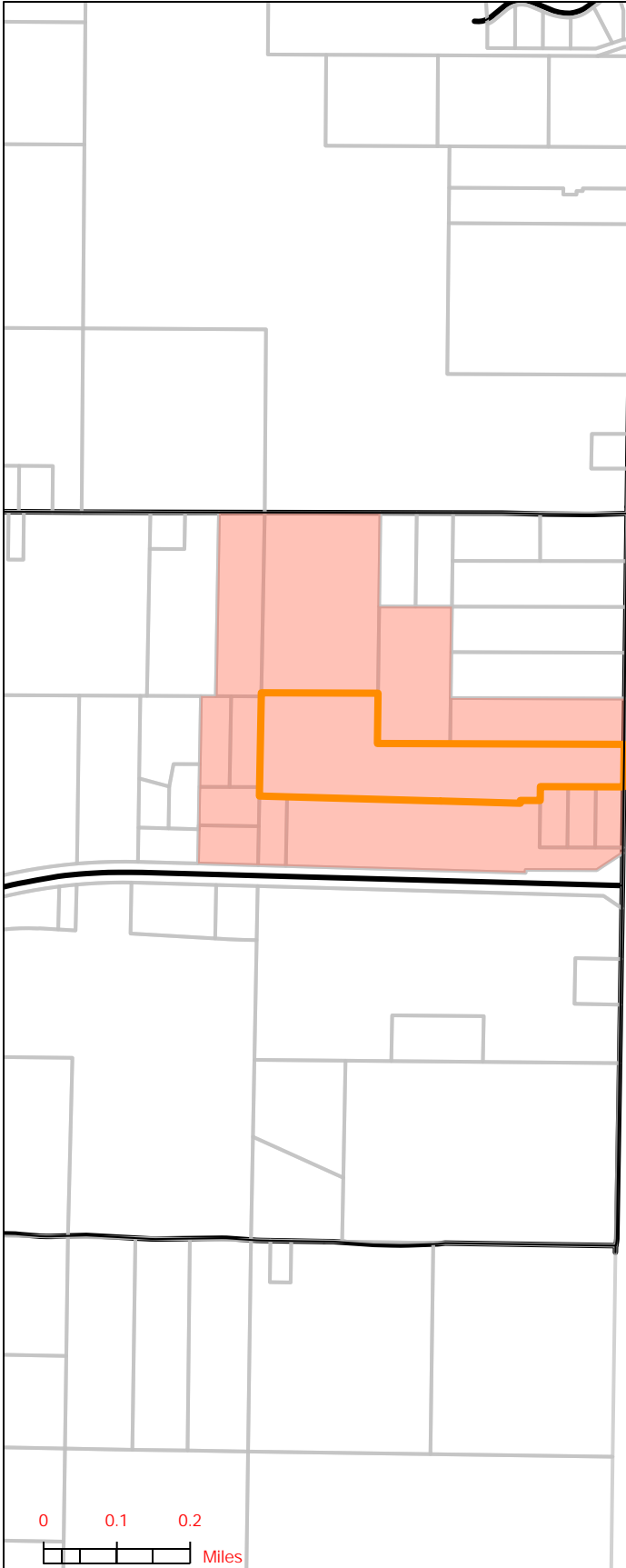
*Robert Hall*

Robert (Bob) Hall  
Whitewater Township  
Zoning Administrator

<sup>3</sup> Act 246 of 1945 | MCL 41.181



# WHITEWATER



28-13-136-001-02  
BAGGS PARTNERS LLC  
53 EASTHAMPTON CT NE  
GRAND RAPIDS MI 49546

28-13-136-001-03  
CIANCIOLO VINCE & EILEEN  
5220 NW 33RD PLACE  
OCALA FL 34482

28-13-136-001-08  
HASKELL COREY D & AMY K  
4061 LEAVIEW RD  
HOLT MI 48842

28-13-136-001-15  
BEAM JIM AND VICKI L  
6847 BAGGS RD  
WILLIAMSBURG MI 49690

28-13-136-002-01  
FOSTER JACOB  
7025 M-72 NW  
WILLIAMSBURG MI 49690

28-13-136-002-02  
FOSTER JACOB  
7025 M-72 NW  
WILLIAMSBURG MI 49690

28-13-136-002-03  
FOSTER JACOB  
7025 M-72 NW  
WILLIAMSBURG MI 49690

28-13-136-002-04  
FOSTER JACOB  
7025 M-72 NW  
WILLIAMSBURG MI 49690

28-13-136-002-05  
FOSTER JACOB  
7025 M-72 NW  
WILLIAMSBURG MI 49690

28-13-136-003-10  
KESSNER JAMES & DENISE  
9819 PINENEEDLE LN  
WILLIAMSBURG MI 49690

28-13-136-008-05  
PESCATELLO MICHAEL & MICHELLE  
11465 E M 72  
WILLIAMSBURG MI 49690

28-13-136-008-10  
THOMPSON MICHAEL & MISTY LYN  
PO BOX 35  
WILLIAMSBURG MI 49690

28-13-136-008-15  
LANDVOY GREYSON & YULIN  
11431 E M-72  
WILLIAMSBURG MI 49690

28-13-136-008-30  
GALE JEFFREY & DEBORAH  
11447 E M 72  
WILLIAMSBURG MI 49690

40004-031-010-00

COPELAND GARY L

6818 BAGGS RD NW

WILLIAMSBURG MI 49690

Whitewater Township  
PO Box 159  
Williamsburg, MI 49690  
231-267-5141

[www.whitewatertownship.org](http://www.whitewatertownship.org)

Application for Land Combination/Divisions  
And Boundary Adjustments

NOTICE: No Land division/combination will be completed until all taxes billed are paid in full.

Application is hereby made for the following:

**Metes and Bounds Parcels**

- ☐ Combination  
☐ Division into 2 parcels  
☐ Boundary Adjustment

**Platted Lots of Record**

- ☐ Combination of entire lots  
☐ Separation of entire lots  
☐ Division/combination of portions of lots  
☐ Boundary Adjustment

**Property Information**

Tax Identification Number(s):

28-13-136-001-00  
28-13-136-001-10

Street Address: BAGGS RD + LASSIERO  
Zoning District: \_\_\_\_\_

Is/Are the parcel(s) in a Special Assessment District?

- ☒ No  
☐ Yes for ☐ Road ☐ Sewer

Road/Driveway Information:

EXISTING DRIVE

Structures currently on the parcel(s)/lot(s):

- ☒ Vacant  
☐ House  
☐ Accessory Building  
☐ Commercial/Industrial

Describe the nature of the request:

SPLIT FOR SALE OF SOUTH  
30 ACRES

**Survey Information:**

A sealed survey shall be required for all land divisions/combinations and redescrptions except for combinations involving platted lots of record.

Name: DEAN FARRIER

Survey Company: FARRIER SURVEYING

Date of Survey: 04/21/2020

Survey Number: 3920

**Owner Information:**

Name: MORRISON ORCHARDS LLC

Name: PETE MORRISON

Address: PO BOX 148

WILLIAMSBURG MI 49690

Phone Number: 231 590 2757

I am the legal owner of record of the above listed parcel(s)/lot(s) and hereby request that it be divided/combined as presented.

Pete Morrison 04/29/2020  
Owner Signature Date

Owner Signature

Date

Fees Due:

\$50.00 per parcel/lot. No charge for combination of existing metes & bounds parcels/platted lots of record.

\$ 50.00 Total Date Paid 05-05-2020

For Office Use Only

TREASURER

As of 5th May, 2020, Township Records show that all taxes, Special Assessments, fees and/or penalties billed to date on the above referenced parcel(s) have been paid.

Ornella M. Benez  
Treasurer Signature

**ZONING**

The proposal meets all Township Zoning and Land Use Requirements.

Scott A. Hall 05-07-2020  
Zoning Administrator Signature

**ASSESSOR**

The proposal is eligible for split, combination or re-description; all ownership records are in order; accurate survey and description have been provided

Dean M. Kuhn  
Assessor Signature

- ☒ Approved  
☐ Denied

✓ CK# 53578 = 50<sup>00</sup>  
5/5/20 amb  
Rec# 023123

2021 Parcel numbers  
Parcel A: 2813-136-001-01  
Parcel B: 2813-136-001-02

From: Steven Bye [SBye@gtcrc.org](mailto:SBye@gtcrc.org)  
Subject: Land Division - Whitewater Twp.  
Date: Apr 28, 2020 at 16:10:15  
To: Dawn Kuhns [assessordawn@gmail.com](mailto:assessordawn@gmail.com)  
Cc: [petmo@charter.net](mailto:petmo@charter.net)

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Hello Dawn:

Attached is a Land Division Review letter. A hardcopy is being sent via post.  
Please let me know if you have any questions or concerns.

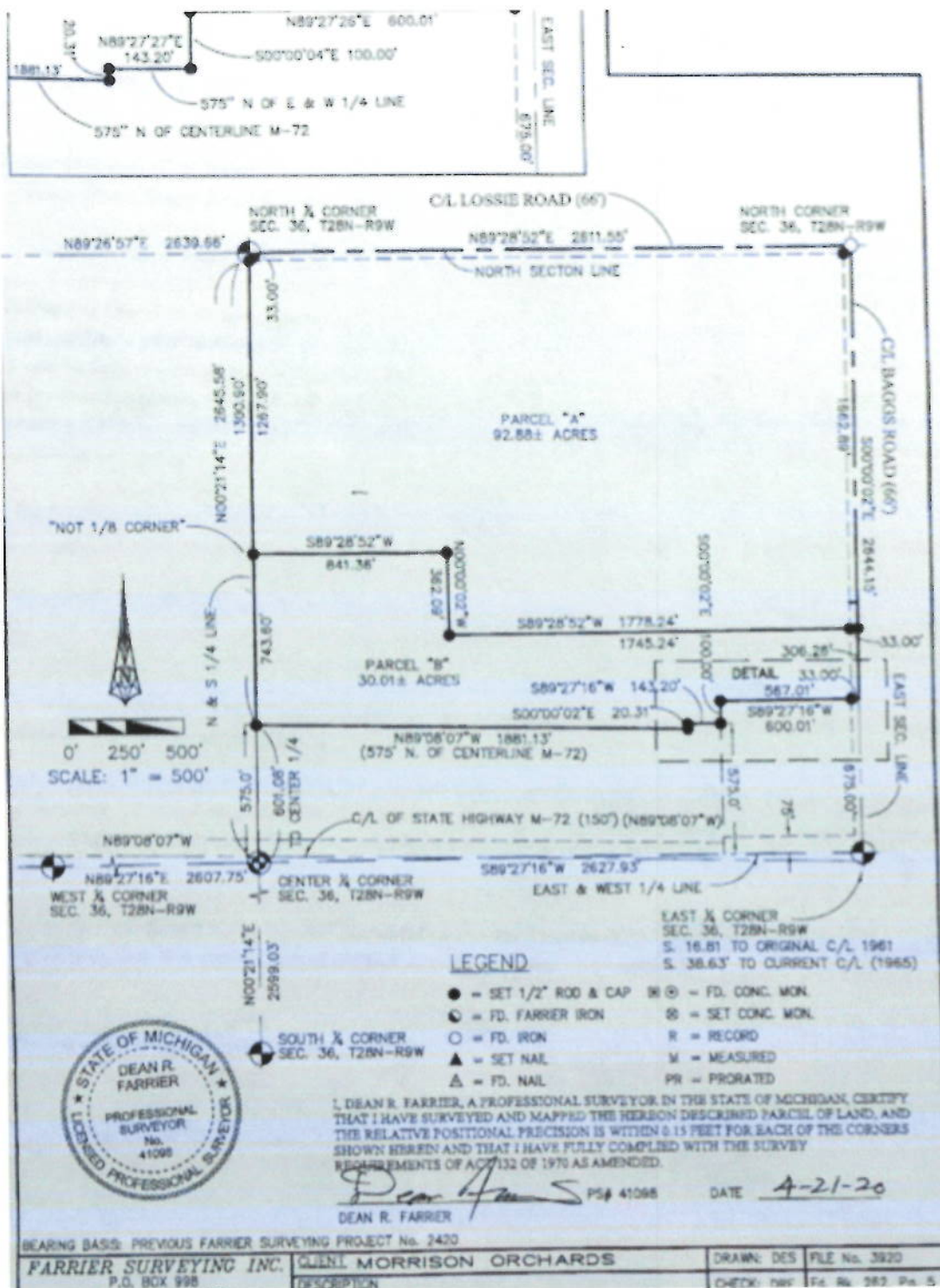
Thank you,

Steve Bye  
GTCRC

Steven P. Bye, PS  
Grand Traverse County Road Commission  
1881 LaFranier Road  
Traverse City, MI 49696-8911  
(231) 922-4848 – office  
(231) 922-4849, ext. 206 – direct  
(231) 645-6655 – mobile  
[www.gtcrc.org](http://www.gtcrc.org)







244 S. CEDAR STREET KALKASKA, MI 49648 TEL(231)258-8162 FAX(231)258-3249 office@harrisurveying.com	PART OF THE NE 1/4, SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN	REVISED:	DATE: 4/21/2020 SHEET: 1 of 2
C:\DATA DRIVE\Carlson Projects\2020\3920 MORRISON\3920 MORRISON.dwg 4/21/2020 1:14:16 PM			



"Our mission is to upgrade and maintain  
a safe and efficient road system"

DATE: April 28, 2020

LD# 20-17

TO: Whitewater Township Assessor  
P.O. Box 159  
Williamsburg, MI 49690

APPLICANT: Morrison Orchards  
P.O. Box 148  
Williamsburg, MI 49690

Re: Parent Parcel ID Number: 28-13-136-001-00

Road Name: Baggs Road & Lossie Road

Public/Private: Public

The above named applicant requested we review the aforementioned parcel for (02) proposed parcels, to determine if access is available in accordance with Section 102 (j) of Act 288 of 1967, as amended, Public Act 200 of 1969, Public Act 591 of 1996, as amended and the current Grand Traverse County Road Commission Standards And Specifications For Subdivisions And Other Development Project With Public and Private Roads. This determination is based upon a field review of the parcels as shown on the attached certificate of survey with respect to connections between proposed driveway locations directly onto the public road system, new private road connection locations directly onto the public road system and the impact of additional private driveways on an existing private road/public road connection location.

☒ Yes. The Grand Traverse County Road Commission would recommend approval for the proposed parcel(s) as adequate location and sight distance is available.

☐ Yes with conditions. The Grand Traverse County Road Commission would recommend approval for the proposed parcel(s). The conditions the GTCRC require are noted on page 2 and must be met prior to GTCRC driveway approval in order to provide for adequate location and sight distance for roadway connections.

☐ No. The Grand Traverse County Road Commission would not recommend approval for the proposed parcel(s) due to an inadequate location or sight distance.

**This letter is not intended as an approval for any driveway permits to this site, which is a separate application process.** Items may be noted on page 2 that the applicant should be prepared to address as the time a Driveway Permit application is submitted. Driveway Permit applications are available at the Grand Traverse County Road Commission office or on-line.

Thank you for the opportunity to review and comment on this proposed land division. Should you have any comments or questions concerning this matter, please contact us at your earliest convenience.

Respectfully,  
Grand Traverse County Road Commission

Reviewed By: Steven P. Bye, PS GTCRC Engineering Department Date: 4/23/2020

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~~CONFIDENTIAL~~

April 28, 2009

Parent Parcel ID Number: 28-13-134-100-00

LD Applications: 20-17

Road Name: Bacon Road &amp; Lonsie Road

Public Access Policy

### CONDITIONS AFFECTING THE PROPOSED LAND DIVISION APPROVAL

Referenced to Certificate of Survey by Farnier Surveying Inc. File No. 3929 dated 04-21-70

1. Parcel "A" sufficient sight distance on Hays Road & Lessor Road.
2. Parcel "B" existing driveway.

### POSSIBLE CONDITIONS AFFECTING FUTURE DRIVEWAY PERMIT APPROVAL

The Grand Traverse County Road Commission observed the following conditions the applicant should be prepared to address at the time of a driveway permit application:

- 1.
- 2.
- 3.

There may be additional concerns or permits required depending on the application for proposed changes to the Grant

# Land Division Tax Payment Certification Form

GRAND TRAVERSE COUNTY TREASURER  
HEIDI SCHEPPE  
400 BOARDMAN AVENUE STE 104  
TRAVERSE CITY MI 49684  
Monday-Friday 8:00AM - 5:00PM  
(231) 922-4735

Property Number: 13-136-001-10  
WHITEWATER TOWNSHIP

Property Address: LOSSIE RD  
WILLIAMSBURG MI 49690

## TAX HISTORY

Current year taxes are not turned over to the county until March 1 of the following year. You may need to contact the local unit treasurer for current year tax payment information.

TAX YEAR	TAX. VALUE	BASE TAX	BASE TAX DUE	INTEREST/FEES DUE	TOTAL DUE	LAST PMT
2019	37,173	901.15	0.00	0.00	0.00	12/05/19
2018	36,302	884.48	0.00	0.00	0.00	12/05/18
2017	35,556	860.15	0.00	0.00	0.00	12/04/17
2016	35,239	862.76	0.00	0.00	0.00	12/07/16
2015	35,134	862.65	0.00	0.00	0.00	12/11/15

### DESCRIPTION OF PROPERTY:

. W 1/2 OF NE 1/4 EXC S 500 FT LYING N OF HWY R/W EXC RD R/W. SEC 36 T28N R9W

☐ CERTIFICATION DENIED

The GRAND TRAVERSE County Treasurer's Office has found delinquent taxes on the parcel listed above and cannot issue a certification of tax payment.

TOTAL DUE AS OF: 04/23/2020 0.00

PRE Denial Amt: 0.00

☐ CERTIFICATION APPROVED

Pursuant to PA 23 of 2019, the GRAND TRAVERSE County Treasurer's Office certifies that all property taxes and special assessments due on the above referenced parcel subject to the proposed division for five years preceding the date of the application have been paid. This certification does not include taxes or special assessments, if any, now in the process of collection by the City, Village or Township Treasurer.

Certified by:

*Sarah*

Date Certified:

4/23/2020

PROPERTY OWNER: MORRISON ORCHARDS  
PO BOX 148  
WILLIAMSBURG MI 49690

Certification Fee of \$5 collected: Check ☒

Cash ☐

Other ☐

# Land Division Tax Payment Certification Form

GRAND TRAVERSE COUNTY TREASURER  
HEIDI SCHEPPE  
400 BOARDMAN AVENUE STE 104  
TRAVERSE CITY MI 49684  
Monday-Friday 8:00AM - 5:00PM  
(231) 922-4735

Property Number: 13-136-001-00  
WHITEWATER TOWNSHIP

Property Address: 6653 BAGGS RD  
WILLIAMSBURG MI 49690

## TAX HISTORY

Current year taxes are not turned over to the county until March 1 of the following year. You may need to contact the local unit treasurer for current year tax payment information.

TAX YEAR	TAX. VALUE	BASE TAX	BASE TAX DUE	INTEREST/FEES DUE	TOTAL DUE	LAST PMT
2019	52,322	1,268.43	0.00	0.00	0.00	12/05/19
2018	51,096	1,244.92	0.00	0.00	0.00	12/05/18
2017	50,046	1,210.72	0.00	0.00	0.00	12/04/17
2016	49,600	1,214.40	0.00	0.00	0.00	12/07/16
2015	49,452	1,214.24	0.00	0.00	0.00	12/11/15

### DESCRIPTION OF PROPERTY:

6653 BAGGS RD E 1/2 OF NE 1/4 EXC S 500 FT LYING N OF HWY R/W ALSO EXC N 100 FT OF E 600 FT OF S 600 FT LYING N OF HWY R/W & EXC RD R/W. SEC 36 T28N R9W

☐ CERTIFICATION DENIED

The GRAND TRAVERSE County Treasurer's Office has found delinquent taxes on the parcel listed above and cannot issue a certification of tax payment.

TOTAL DUE AS OF: 04/23/2020 0.00

PRE Denial Amt: 0.00

☐ CERTIFICATION APPROVED

Pursuant to PA 23 of 2019, the GRAND TRAVERSE County Treasurer's Office certifies that all property taxes and special assessments due on the above referenced parcel subject to the proposed division for five years preceding the date of the application have been paid. This certification does not include taxes or special assessments, if any, now in the process of collection by the City, Village or Township Treasurer.

Certified by: Sarah Tan Date Certified: 4/23/2020

PROPERTY OWNER: MORRISON ORCHARDS  
PO BOX 148  
WILLIAMSBURG MI 49690

Certification Fee of \$5 collected: Check ☒ Cash ☐ Other ☐



28-413-134-221-16  
-221-17WARRANTY DEED

For the sum of \$165,000.00 WALTER U. COX and ANDREA L. COX, husband and wife, of 7421 Baggs Road, Williamsburg, Michigan 49690, hereby convey and warrant to MORRISON ORCHARDS, a Michigan general partnership, whose address is Route #2, 10107 U.S. 31 North, Williamsburg, Michigan 49690, the following lands and premises in Whitewater Township, Grand Traverse County, Michigan:

The Northeast quarter of Section 36, Township 28 North, Range 9 West, excepting the following described parcel: Commencing at a point which point is the intersection of the North and South one-quarter line and the North right-of-way line of Highway M-72; thence Easterly along said right-of-way line to the Westerly right-of-way line of Baggs Road; thence Northerly along said Westerly right-of-way line of Baggs Road 600 feet; thence Westerly parallel with the North right-of-way line of M-72 600 feet; thence Southerly parallel with the Westerly right-of-way line of Baggs Road 100 feet; thence Westerly parallel with the Northerly right-of-way line of M-72 to the North and South quarter line of said Section; thence Southerly on said North and South quarter line to the point of commencement.

Subject to restrictions and easements of record, subject to a right-of-way in favor of Cherryland Rural Electric Cooperative recorded in Liber 432, Page 292; subject to Farmland Development Rights Agreements as recorded in Liber 575, Pages 915 and 917, and subject to the rights of the public in that part of the premises taken, used, or deeded for street, road, or highway purposes.

This Deed is given in fulfillment of a certain Land Contract between the parties dated September 1, 1988. There are excepted from the warranties hereof any defects or other matters which have arisen, or may hereafter arise, out of the acts or omissions of persons other than the grantors herein after September 1, 1988, the date of the aforesaid Land Contract.

Transfer Tax: \$181.50

Signed at Traverse City, Michigan on December 9, 1992.

In the Presence of:

Robert H. Witkop  
ROBERT H. WITKOP  
Patricia L. Bell  
PATRICIA L. BELL

Walter U. Cox  
Walter U. Cox  
Andrea L. Cox  
Andrea L. Cox

STATE OF MICHIGAN, County of Grand Traverse, ss, Traverse City 11-2 1992. I hereby certify that there are no Tax liens or Taxes held by the State or any individual against the within description, and all Taxes on same are paid for five years previous to the date of this instrument as shown by the records in my office. This does not apply taxes in the presence of witnesses by Township, City or Village. B. J. [Signature]  
Grand Traverse County Treasurer

180824 677

18150

STATE OF MICHIGAN

COUNTY OF GRAND TRAVERSE

SS.

The foregoing instrument was signed and acknowledged before me on December 9, 1992, by WALTER U. COX and ANDREA L. COX.

*Patricia L. Bell*

PATRICIA L. BELL

Notary Public

Grand Traverse County, Michigan

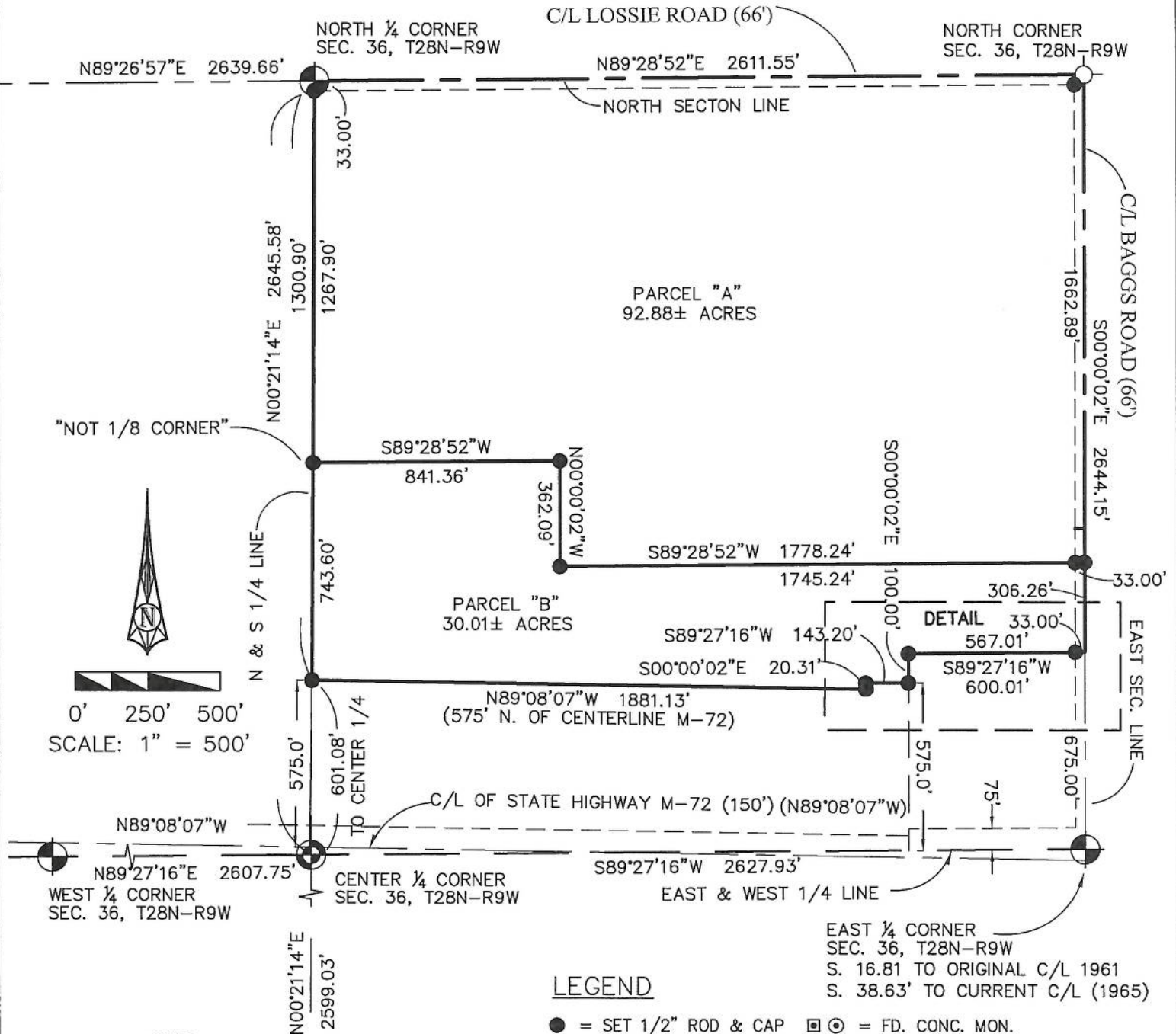
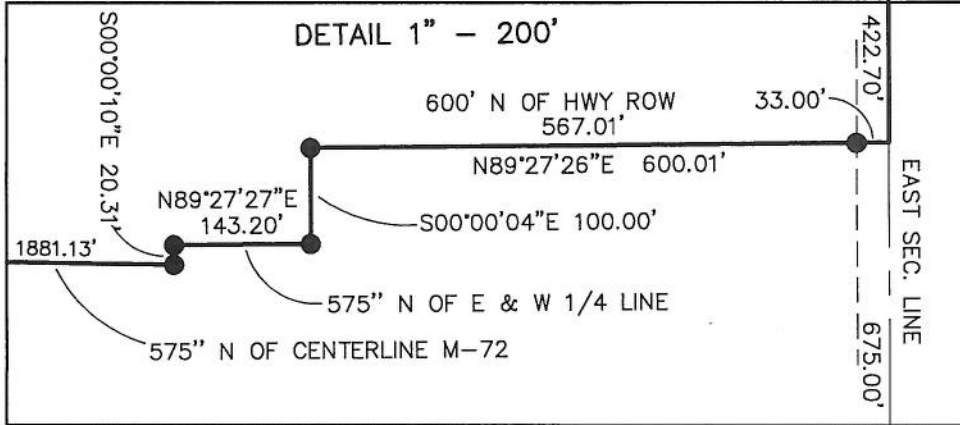
My commission expires: 2/13/96

Drafted by:  
James Stephen, II, Esq.  
Menmuir, Zimmerman, Kuhn,  
Stephen and Anderson  
122 West State Street  
Post Office Box 987  
Traverse City, MI 49685-0987  
Telephone: (616) 947-7900

*James Stephen, II*  
REGISTER OF DEEDS  
STATE OF MICHIGAN  
GRAND TRAVERSE CO.  
RECEIVED FOR RECORD  
JAN 13 PM 1:52

# CERTIFICATE OF SURVEY

... A CERTIFIED COPY ... SHALL BE RECORDED AT THE  
TIME OF RECORDING THE CONVEYANCE OF TITLE ... THE  
PART OF (SEC. 1(2), ACT 132 OF 1970 AS AMENDED.)



"NOT 1/8 CORNER"



0' 250' 500'  
SCALE: 1" = 500'

## LEGEND

- = SET 1/2" ROD & CAP
- = FD. FARRIER IRON
- = FD. IRON
- ▲ = SET NAIL
- △ = FD. NAIL
- ⊗ = FD. CONC. MON.
- ⊗ = SET CONC. MON.
- R = RECORD
- M = MEASURED
- PR = PRORATED

I, DEAN R. FARRIER, A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, CERTIFY THAT I HAVE SURVEYED AND MAPPED THE HEREON DESCRIBED PARCEL OF LAND, AND THE RELATIVE POSITIONAL PRECISION IS WITHIN 0.15 FEET FOR EACH OF THE CORNERS SHOWN HEREIN AND THAT I HAVE FULLY COMPLIED WITH THE SURVEY REQUIREMENTS OF ACT 132 OF 1970 AS AMENDED.

DEAN R. FARRIER

PS# 41098

DATE 4-21-20

BEARING BASIS: PREVIOUS FARRIER SURVEYING PROJECT No. 2420

**FARRIER SURVEYING INC.**  
P.O. BOX 998  
244 S. CEDAR STREET  
KALKASKA, MI 49646  
TEL(231)258-8162 FAX(231)258-3249  
office@farrriersurveying.com

**CLIENT MORRISON ORCHARDS**

### DESCRIPTION

PART OF THE NE 1/4,  
SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP,  
GRAND TRAVERSE COUNTY, MICHIGAN

DRAWN: DES

FILE No. 3920

CHECK: DRF

Fd. Bk. 262, Pg. 5

REVISED:

DATE: 4/21/2020

SHEET: 1 of 2

DESCRIPTION

PARCELS OF LAND SITUATED IN THE TOWNSHIP OF WHITEWATER, COUNTY OF GRAND TRAVERSE, STATE OF MICHIGAN DESCRIBED AS FOLLOWS TO-WIT:

DESCRIPTIONS AS FURNISHED  
TAX ID NO. 13-136-001-10

THE WEST ½ OF THE NORTHEAST 1/4, EXCEPTING THE SOUTH 500 FEET LYING NORTH OF THE HIGHWAY RIGHT-OF-WAY AND EXCEPT ROAD RIGHT-OF-WAY, SECTION 36, T28N-R9W.

TAX ID NO. 13-136-001-00

THE EAST ½ OF THE NORTHEAST 1/4, EXCEPTING THE SOUTH 500 FEET LYING NORTH OF HIGHWAY RIGHT-OF-WAY AND ALSO EXCEPT THE NORTH 100 FEET OF THE EAST 600 FEET OF SOUTH 600 FEET LYING NORTH OF HIGHWAY RIGHT OF WAY AND EXCEPT RIGHT-OF-WAY, SECTION 36, T28N-R9W.

DIVISION PARCEL DESCRIPTIONS  
PARCEL "A"

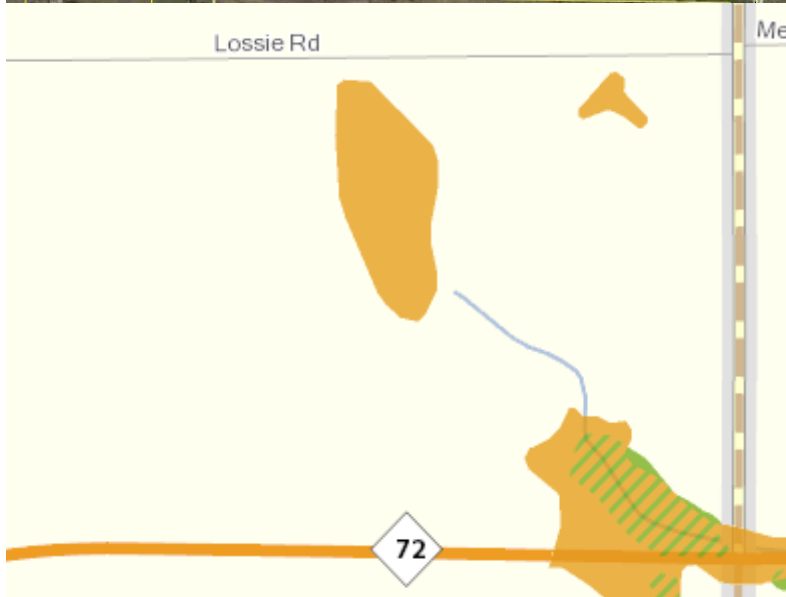
PART OF THE NORTHEAST ¼ OF SECTION 36, T28N-R9W DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE S00°00'02"E, 1662.89 FEET ALONG THE EAST LINE OF SAID SECTION 36; THENCE S89°28'52"W, 1778.24 FEET; THENCE N00°00'02"W, 362.09 FEET; THENCE S89°28'52"W, 841.36 FEET TO A POINT ON THE NORTH AND SOUTH ¼ LINE OF SAID SECTION 36; THENCE N00°21'14"E, 1300.90 FEET ALONG SAID NORTH AND SOUTH ¼ LINE TO A POINT ON THE NORTH LINE OF SAID SECTION 36; THENCE N89°28'52"E, 2611.55 FEET ALONG SAID NORTH SECTION LINE TO THE POINT OF BEGINNING. CONTAINING 92.88 ACRES MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY FOR LOSSIE ROAD AND BAGGS ROAD, AND ALSO SUBJECT TO EASEMENTS, RESERVATIONS AND RESTRICTIONS OF RECORD.

PARCEL "B"

PART OF THE NORTHEAST ¼ OF SECTION 36, T28N-R9W, EXCEPTING THE SOUTH 500 FEET LYING NORTH OF THE HIGHWAY RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE S00°00'02"E, 1662.89 FEET ALONG THE EAST LINE OF SAID SECTION 36 TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST SECTION LINE, S00°00'02"E, 306.26 FEET TO POINT ON THE NORTH LINE OF THE SOUTH 600 FEET LYING NORTH OF THE NORTH RIGHT-OF-WAY AND ; THENCE S89°27'16"W, 600.01 FEET PARALLEL TO THE EAST AND WEST ¼ LINE OF SAID SECTION 36 AND PARALLEL WITH AND 600.00 FEET NORTH OF THE NORTH RIGHT-OF-WAY STATE HIGHWAY M-72; THENCE S00°00'02"E, 100 FEET PARALLEL TO SAID EAST SECTION LINE; THENCE S89°27'16"W, 143.20 FEET PARALLEL TO SAID EAST SECTION LINE; THENCE S00°00'02"E, 20.31 FEET TO A POINT 575.00 FEET NORTHERLY OF THE CENTERLINE OF STATE HIGHWAY M – 72; THENCE N89°08'07"W, 1881.13 FEET PARALLEL TO SAID CENTERLINE OF M – 72 TO A POINT ON THE NORTH AND SOUTH ¼ LINE OF SAID SECTION 36; THENCE N00°21'14"E, 743.60 FEET ALONG SAID NORTH AND SOUTH ¼ LINE; THENCE N89°28'52"E, 841.36 FEET; THENCE S00°00'02"E, 362.09 FEET; THENCE N89°28'52"E, 1778.24 FEET TO THE POINT OF BEGINNING. CONTAINING 30.01 ACRES MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY FOR BAGGS ROAD, AND ALSO SUBJECT TO EASEMENTS, RESERVATIONS AND RESTRICTIONS OF RECORD.

FARRIER SURVEYING INC. P.O. BOX 998 244 S.CEDAR STREET KALKASKA, MI 49646 TEL(231)258-8162 FAX(231)258-3249 office@farriersurveying.com	CLIENT MORRISON ORCHARDS	DRAWN: DES	FILE No. 3920
	DESCRIPTION  PART OF THE NE 1/4, SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN.	CHECK: DRF	Fd. Bk. 262, Pg. 5
		REVISED:	DATE: 4/21/2020
			SHEET: 2 of 2
C:\DATA DRIVE\Carlson Projects\2020\3920 MORRISON\3920 MORRISON.dwg 4/21/2020 1:18:25 PM			







**OWNER'S REPORT for Zoning Board of Appeals**

**Case # ZBA-2023-ZA**

**1. Applicant(s) / Owner(s)**

Applicant(s)

Baggs Partners, LLC  
53 Easthampton Ct NE  
Grand Rapids, Michigan 49546

Owner(s):

Derek Van Solkema  
53 Easthampton Ct NE  
Grand Rapids, Michigan 49546

Ryan Sheffer  
9239 28<sup>th</sup> St. SE  
Ada, Michigan 49301

Agent(s):

Michael Herring (attorney)  
2029 Celadon Dr.  
Grand Rapids, MI 49525  
Gary Van Solkema (builder)  
XXXXXX  
XXXXXX

Site Address:

6631 Baggs Road, Williamsburg, Michigan 49690  
Parcel ID# 28-13-136-001-02  
Whitewater Township – Grand Traverse County, Michigan

Zoning District:

A1-Agriculture

## 2. Owner's Statement of Fact.

We would like to thank the ZBA for hearing our appeal. We are requesting the ZBA review our variance application.

### **Statements from Derek Van Solkema & Ryan Sheffer, Landowners of 6631 Baggs Rd.**

LAND ACQUISITION FACT(S): Due diligence on parcel 28-13-136-001-02 started in September 2021, 4 (four) months prior to purchase. We engaged Whitewater Township officials, studied 40 years of easements, deed restrictions as well as deed transfers. Nothing concerning was uncovered. On January 14th 2022, we personally closed on parcel 28-13-136-001-02 via Warranty Deed through Searchlight Title in Traverse City Michigan. Subsequently, we transferred the parcel to Baggs Partners LLC, fully owned, using a Quit Claim Deed. We completed our dream of acquiring a large, rural, northern Michigan property and were excited to get to work.

Mansfield Land Use Consultants in Traverse City surveyed the land after purchase and prepared a site plan. Zoning Administrator Robert Hall was confident in Mansfield's project plans and assured us that our property met all requirements for the site condominium project.

After our plan was submitted to the township for land division approval, our site plan was approved. However, 3 direct neighbors and Ron Popp, the Township Supervisor, weaponized the township board against us. A complaint was filed and the board took it upon themselves to review our site plan. Ordinarily, a site plan under review of the board is, according to the Township ordinance, to take 45 days. After 17 months of delays and arbitrary moratoriums parcel 28-13-136-001-02 was deemed unbuildable by the board. Working with the board to date has yielded a very concerning overreach of their power. Now, without a variance our property rights will be stripped of any value overnight in an unconstitutional fashion.

On May 3rd, 2023, more than a year after we purchased the property, the board retroactively revoked a prior split approval. The Whitewater township board deemed our property unbuildable, and the minutes approved on June 13, 2023.

***Motion by Popp to uphold the elements of general ordinance 26, amendment 3, as written. "Based on the findings of fact, we find parcel 28-13-136-001-02 noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d), and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval."***

***Popp stated he will make that motion.***

***Glenn seconded.***

***Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion Carried.***

### 3. Refuting the Board's Statement of Fact.

The Boards finding of fact from the May 3 meeting<sup>1</sup> are as follows:

#### 1. Request for variance is nonexistent.

RESPONSE: Put simply, the land was split in 2020. The company that split the land was Morrison Orchard. Morrison Orchard went through the process of getting the split approved in 2020. On 5/7/2020 Robert Hall signed off on the Application for Land Combination/Divisions And Boundary Adjustments on the Morrison Orchard Split attesting that the Zoning proposal meets all Township and Land Use Requirements with knowledge that the parcel exceeded a traditional 4:1 depth to width ratio. Based on this fact, we did not believe a variance request was needed. The property had been split on April 29, 2020. The land division was approved in 2020. <sup>2</sup>

#### 2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.

RESPONSE: The Zoning Administrator did review and approve a Land Division that created Parcel #28-13-136-001-02 on May 5<sup>th</sup> and signed on May 7th, 2020 that exceeded a traditional 4:1 depth to width ratio after establishing that the applicant had met the requirements in accordance with the provisions of General Ordinance No. 26, Section VII.D (second paragraph) provided to the Zoning Administrator in August of 2019, which reads as follows:

***"The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one" if there are "exceptional topographic or physical conditions" on the parcel and the "greater ratio would be reasonably compatible with the surrounding lands."***

Section 109(b) of the Land Division Act specifically excludes the 4:1 depth to width ratio requirements to a parcel larger than 10 acres unless a(n) ordinance provides otherwise.

Ordinance No. 26 (Whitewater Township Land Division Ordinance) makes no mention of being applicable to parcels larger than 10 acres in size.

This parcel has been on the assessment role since May of 2020 and was never challenged through prior review process.

The property has been sold twice since 2020 with no changes to the tax assessment role nor have the property rights being challenged.

#### 3. No record of topographical or environmental adverse circumstances.

RESPONSE: When originally approved the original applicant, Morrison Orchard, did demonstrate that there were exceptional topographic or physical conditions with respect to the parcel #28-13-136-001-02 and as observed during a personal site visit. Robert Hall's research utilizing the Grand Traverse County

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<sup>1</sup> 05/03/2023 Whitewater Township Board Special Meeting Minutes (excerpt)

<sup>2</sup> See Exhibit B

GIS tax mapping and soils viewer, as well as Michigan Department of Environment, Great Lakes, and Energy (EGLE) Wetland Inventory Maps was also performed.

Exceptional or extraordinary circumstances do exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.

The land division was also approved by the Grand Traverse County Road Commission.<sup>3</sup>

#### **4. The ordinance is a local law, flawed or unflawed.**

RESPONSE: The board has not given any reason or evidence that would support revoking or overturning the original approval.

We exhausted all due diligence before this bona fide purchase was made and could not have anticipated the bizarre and rogue actions of the Whitewater Township Board.

We remain confused how local ordinance 26 is being used to deem our land unbuildable. We feel that strict compliance with Ordinance 26 would allow our parcel to exist without restrictions as it has since May of 2020.

We also relied on LDA 560.109 (b) “The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection.”

We have yet to see how the local ordinance precludes this exemption.

If the Whitewater Township’s Board decision on this local Ordinance is upheld for the direct neighbors of Parcel #28-13-136-001-02, we will carry the unreasonable burden of owning impaired property.

If the variance is not approved, a beautiful 30-acre parcel is unbuildable and a substantial financial burden is levied upon us.

#### **5. Following township ordinance is important to the greater good.**

RESPONSE: The Township has given no citation in the ordinance giving it the authority to overturn a prior approved split. No notices or hearing have been delivered to the effected parties.

No list of the conditions of approval were given to us to help bring the parcel into conformity. The township is applying an all or nothing approach to the ordinance.

The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.

We have always wanted to enhance the beauty of the subject parcel by keeping topography and tree coverage in-tact. The rural characteristics of Whitewater Township are a focus to us.

Our parcel shares characteristics of neighboring parcels which have received Land Use Permits. Our site-condo project is moving with the momentum of the development of the surrounding area which has not created an adverse impact on the enjoyment of the property in the immediate area.

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<sup>3</sup> Attached Exhibit B also.

## 4. Evidence in favor of the Variance

In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:

- **Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.**
  - The Zoning Administrator did review and approve a Land Division that created Parcel #28-13-136-001-02 on May 5<sup>th</sup> and signed on May 7<sup>th</sup>, 2020 that exceeded a traditional 4:1 depth to width ratio after establishing that the applicant had met the requirements in accordance with the provisions of General Ordinance No. 26, Section VII.D (second paragraph) provided to the Zoning Administrator in August of 2019, which reads as follows:
    - ***"The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one" if there are "exceptional topographic or physical conditions" on the parcel and the "greater ratio would be reasonably compatible with the surrounding lands."***
  - Section 109(b) of the Land Division Act specifically excludes the 4:1 depth to width ratio requirements to a parcel larger than 10 acres unless a(n) ordinance provides otherwise.
  - Ordinance No. 26 (Whitewater Township Land Division Ordinance) makes no mention of being applicable to parcels larger than 10 acres in size.
  - This parcel has been on the assessment role since May of 2020 and was never challenged through prior review process.
  - The property has been sold twice since 2020 with no changes to the tax assessment role nor have the property rights being challenged.
  - Robert Hall, the ZA, originally based our property's exception on the NWI (National Wetlands Inventory) mapping overlay, and the fact that the intent was to separate the 'farmable' from the 'non- farmable' land from the original orchard. This was also based upon the steep ravines and the wooded area that was included as part of the division



application.



- **Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.**
  - If the variance is not approved, the land is unbuildable. The Ordinance will be unreasonably burdensome because it will cause our property value to plummet to nearly zero.
  - No list of the conditions of approval were given to us to help bring the parcel into conformity. The township is applying an all or nothing approach to the ordinance.

- If the Whitewater Township’s Board decision on this local Ordinance is upheld for the benefit of our direct neighbors, we will carry the unreasonable burden of owning impaired property.
  - We remain confused how local ordinance 26 is being used to deem our land unbuildable. We feel that strict compliance with Ordinance 26 would allow our parcel to exist without restrictions as it has since May of 2020.
  - We’ve exhausted all due diligence before this bona fide purchase was made and could not have anticipated the bizarre and rogue actions of the Whitewater Township Board.
  - The Township has given no citation in the Ordinance giving it the authority to overturn a prior approved split. No notices or hearing have been delivered to the effected parties.
  - We relied on LDA 560.109 (b) “The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection.” We have yet to see local Ordinance precluding this exemption.
- **The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.**
    - The requested variance should enhance the property values of surrounding properties. New dwelling construction of high caliber homes is our intent. Neighboring parcels have had no issues receiving Land Use Permits and now have dwelling structures. We are moving with the momentum of the development of the surrounding area which has not created an adverse impact on the enjoyment of the property in the immediate area.
    - We have always wanted to enhance the beauty of the subject parcel by keeping topography and tree coverage in-tact. The rural characteristics of Whitewater Township are a focus to us.
- **Health, safety and welfare will not be compromised.**
    - We will not create a health, safety, or welfare risk to the community at large. Our only intent is to construct high quality residential structures. Again, health, safety, and welfare will not be compromised.
    - Any construction will be in accordance with the Building Code.
- **The requested variance is the minimum variance necessary to permit reasonable use of the land.**
    - Without the variance, our 30-acre parcel will be unbuildable.
    - This is the minimum variance necessary to enforce the prior approval of our parcel. All parties relied on the May 2020 Land Division. Any other change or

modification would substantially impact our property rights given at the original approved land division.

- We are simply asking that our land's value not be confiscated. This is the minimum request to promote the use of our land.

**Whitewater Township Board  
Minutes of Special Meeting held May 3, 2023**

**Call to Order**

Supervisor Popp called the meeting to order at 9:00 a.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan.

**Roll Call of Board Members**

Board Members present in person: Clerk Goss, Treasurer Benak, Trustee Glenn, Trustee Vollmuth, Popp

Board Members absent: None

Others present in person: Zoom Facilitator Lois MacLean and 4 others

Others present via Zoom: Attorney Matt Kuschel and 6 others

**Set/Adjust Meeting Agenda**

There were no adjustments.

**Declaration of Conflict of Interest**

None

**Public Comment**

Public comment began at 9:01 a.m.

Vicki Beam

Tom McElwee

Karin Boyd

Connie Hymore (read statement of Frank Hymore)

Public comment ended at 9:13 a.m.

**Agenda Items as Listed in Special Meeting Notice****HYMORE COMPLAINT – CLOSED SESSION**

*Motion by Goss to enter closed session pursuant to MCL 15.268(1)(h) and MCL 15.243(1)(g) to discuss a confidential written legal opinion from the Township Attorney regarding township land divisions and specifically parcel 13-136-001-02; second by Benak.*

*Roll call vote: Vollmuth (did not vote); Benak, yes; Popp, no; Glenn, no; Goss, yes. Motion failed.*

Benak stated she is going to exercise her right to leave the meeting.

Kuschel confirmed the motion to go into closed session failed.

At 9:16 a.m., Benak left the meeting in protest of the closed session vote.

At 9:17 a.m., Popp left the meeting to take a phone call.

At 9:19 a.m., Popp returned to the meeting.

Kuschel provided several options to discuss the legal opinion.

Lengthy discussion followed.

***Motion by Popp to uphold the elements of general ordinance 26, amendment 3, as written.***

Findings of fact:

1. Request for variance is nonexistent.
2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.
3. No record of topographical or environmental adverse circumstances.
4. The ordinance is a local law, flawed or unflawed.
5. Following township ordinance is important to the greater good.

***Based on the findings of fact, we find parcel 28-13-136-001-02 noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d), and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.***

***Popp stated he will make that motion.***

***Glenn seconded.***

***Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion carried.***

## **FINAL SIGNATURES – WHITEWATER TOWNSHIP PARK IMPROVEMENTS PROJECT**

***Motion by Popp to award Molon Excavating the bid dated 01/30/2023 for phase one (items 1 through 19) at a cost of \$461,034.71, plus the correction letter dated 02/13/2023 in the amount of \$23,900, as well as Alternate Price Bids A, B, D and E at a cost of \$39,562.64, of the Whitewater Township Park Improvement Project, for a total cost of \$524,497.35, based on the recommendations of Fleis & VandenBrink engineering firm; second by Glenn.***

***Roll call vote: Benak, absent; Glenn, yes; Goss, yes; Vollmuth, yes; Popp, yes. Motion carried.***

Various contract provisions were discussed.

Popp will accept designated representative duties, per policy. He confirmed if he needs help, he will ask for it.

*Approved 06/13/2023 - CG*

***Motion by Glenn to authorize Supervisor Popp to sign the Molon contract with an effective date of 03/10/2023 for the Whitewater Township Park Improvement Project, contract number 842850, in the amount of \$484,934.71; second by Vollmuth.***

***Roll call vote: Popp, yes; Goss, yes; Vollmuth, yes; Benak, absent; Glenn, yes. Motion carried.***

Various contract provisions were reviewed.

Popp withdrew his name as project representative.

At 12:50 p.m., Popp left the meeting.

***Motion by Vollmuth to nominate Goss to take over the meeting; second by Glenn.***

***Roll call vote: Glenn, yes; Popp, absent; Benak, absent; Goss, yes; Vollmuth, yes. Motion carried.***

***Motion by Glenn to table review of the Whitewater Township boat ramp expansion contract; second by Vollmuth.***

***Roll call vote: Benak, absent; Vollmuth, yes; Popp, absent; Glenn, yes; Goss, yes. Motion carried.***

#### **APPROVE PARK RANGERS**

***Motion by Glenn to approve the three (3) park ranger pay rates as presented for the 2023 park season and to approve 05/01/2023 as the effective date of employment for Andrew Butler Parks & Recreation Manager; second by Goss.***

***Glenn revised the motion to add the names of David (Tripp) Wagner, Vickie Emerson, and Mike Dwyer for park rangers.***

***Goss re-seconded the motion.***

***Roll call vote: Popp, absent; Benak, absent; Vollmuth, yes; Goss, yes; Glenn, yes. Motion carried.***

#### **OTHER CAMPING PARK OPENING ITEMS NEEDING BOARD INPUT/ACTION**

Glenn thanked the following volunteers who have helped out at the park, Vickie Emerson, Lorie North, Carol Wakely, Hilary Modica, Rod Rebant, Al Keaton, Randy Mielnik, Denise Peltonen, Jay Holden, Andrew Butler, and commented on free camping weekend and credit card processing.

#### **Board Comments/Discussion**

Vollmuth wants a copy of the tribe's boat wash.



**Public Comment**

Public comment began at 1:13 p.m.

Rachel Steelman  
Connie Hymore  
Vicki Beam

Public comment ended at 1:19 p.m.

**Adjournment**

*Motion by Vollmuth to adjourn; second by Glenn. Roll call vote: Vollmuth, yes; Goss, yes; Glenn, yes; Benak, absent; Popp, absent.*

Meeting adjourned at 1:19 p.m.

Cheryl A. Goss  
Whitewater Township Clerk

Whitewater Township  
PO Box 159  
Williamsburg, MI 49690  
231-267-5141

[www.whitewatertownship.org](http://www.whitewatertownship.org)

Application for Land Combination/Divisions  
And Boundary Adjustments

NOTICE: No Land division/combination will be completed until all taxes billed are paid in full.

Application is hereby made for the following:

**Metes and Bounds Parcels**

- ☐ Combination  
☐ Division into 2 parcels  
☐ Boundary Adjustment

**Platted Lots of Record**

- ☐ Combination of entire lots  
☐ Separation of entire lots  
☐ Division/combination of portions of lots  
☐ Boundary Adjustment

**Property Information**

Tax Identification Number(s):

28-13-136-001-00  
28-13-136-001-10

Street Address: BAGGS RD + LASSIERO  
Zoning District: \_\_\_\_\_

Is/Are the parcel(s) in a Special Assessment District?

- ☒ No  
☐ Yes for ☐ Road ☐ Sewer

Road/Driveway Information:

EXISTING DRIVE

Structures currently on the parcel(s)/lot(s):

- ☒ Vacant  
☐ House  
☐ Accessory Building  
☐ Commercial/Industrial

Describe the nature of the request:

SPLIT FOR SALE OF SOUTH  
30 ACRES

**Survey Information:**

A sealed survey shall be required for all land divisions/combinations and redescrptions except for combinations involving platted lots of record.

Name: DEAN FARRIER

Survey Company: FARRIER SURVEYING

Date of Survey: 04/21/2020

Survey Number: 3920

**Owner Information:**

Name: MORRISON ORCHARDS LLC

Name: PETE MORRISON

Address: PO BOX 148

WILLIAMSBURG MI 49690

Phone Number: 231 590 2757

I am the legal owner of record of the above listed parcel(s)/lot(s) and hereby request that it be divided/combined as presented.

Pete Morrison 04/29/2020  
Owner Signature Date

Owner Signature

Date

Fees Due:

\$50.00 per parcel/lot. No charge for combination of existing metes & bounds parcels/platted lots of record.

\$ 50.00 Total Date Paid 05-05-2020

For Office Use Only

TREASURER

As of 5th May, 2020, Township Records show that all taxes, Special Assessments, fees and/or penalties billed to date on the above referenced parcel(s) have been paid.

Michelle M. Benez  
Treasurer Signature

**ZONING**

The proposal meets all Township Zoning and Land Use Requirements.

Scott A. Hall 05-07-2020  
Zoning Administrator Signature

**ASSESSOR**

The proposal is eligible for split, combination or re-description; all ownership records are in order; accurate survey and description have been provided

Dean M. Kuhn  
Assessor Signature

- ☒ Approved  
☐ Denied

✓ CK# 53578 = 50<sup>00</sup>  
5/5/20 amb  
Rec# 023123

2021 Parcel numbers  
Parcel A: 2813-136-001-01  
Parcel B: 2813-136-001-02

From: Steven Bye [SBye@gtcrc.org](mailto:SBye@gtcrc.org)  
Subject: Land Division - Whitewater Twp.  
Date: Apr 28, 2020 at 16:10:15  
To: Dawn Kuhns [assessordawn@gmail.com](mailto:assessordawn@gmail.com)  
Cc: [petmo@charter.net](mailto:petmo@charter.net)

---

Hello Dawn:

Attached is a Land Division Review letter. A hardcopy is being sent via post.  
Please let me know if you have any questions or concerns.

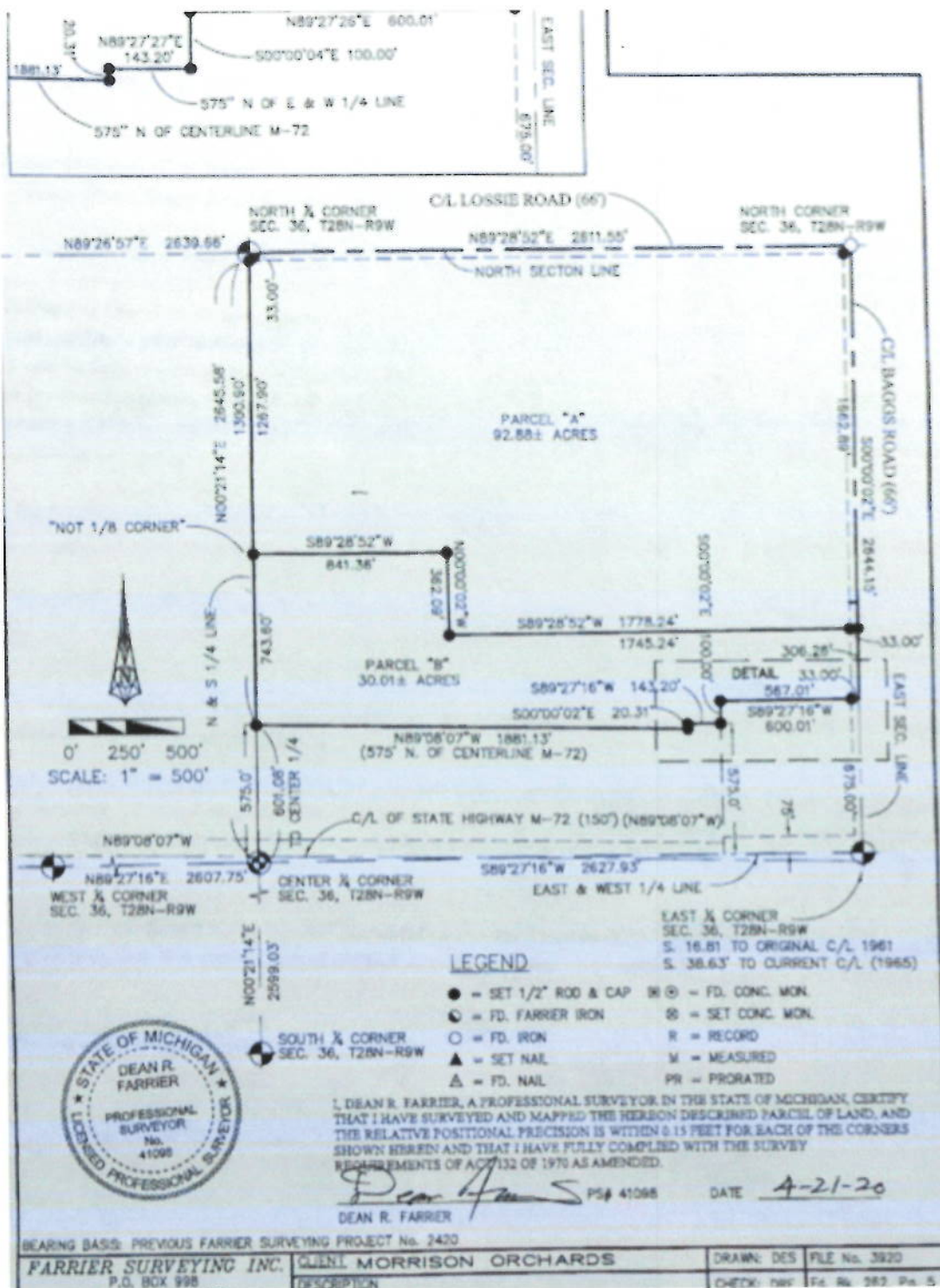
Thank you,

Steve Bye  
GTCRC

Steven P. Bye, PS  
Grand Traverse County Road Commission  
1881 LaFranier Road  
Traverse City, MI 49696-8911  
(231) 922-4848 – office  
(231) 922-4849, ext. 206 – direct  
(231) 645-6655 – mobile  
[www.gtcrc.org](http://www.gtcrc.org)







244 S. CEDAR STREET KALKASKA, MI 49648 TEL(231)258-8162 FAX(231)258-3249 office@harrisurveying.com	PART OF THE NE 1/4, SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN	REVISED:	DATE: 4/21/2020 SHEET: 1 of 2
C:\DATA DRIVE\Carlson Projects\2020\3920 MORRISON\3920 MORRISON.dwg 4/21/2020 1:14:16 PM			



"Our mission is to upgrade and maintain  
a safe and efficient road system"

DATE: April 28, 2020

LD# 20-17

TO: Whitewater Township Assessor  
P.O. Box 159  
Williamsburg, MI 49690

APPLICANT: Morrison Orchards  
P.O. Box 148  
Williamsburg, MI 49690

Re: Parent Parcel ID Number: 28-13-136-001-00

Road Name: Baggs Road & Lossie Road

Public/Private: Public

The above named applicant requested we review the aforementioned parcel for (02) proposed parcels, to determine if access is available in accordance with Section 102 (j) of Act 288 of 1967, as amended, Public Act 200 of 1969, Public Act 591 of 1996, as amended and the current Grand Traverse County Road Commission Standards And Specifications For Subdivisions And Other Development Project With Public and Private Roads. This determination is based upon a field review of the parcels as shown on the attached certificate of survey with respect to connections between proposed driveway locations directly onto the public road system, new private road connection locations directly onto the public road system and the impact of additional private driveways on an existing private road/public road connection location.

☒ Yes. The Grand Traverse County Road Commission would recommend approval for the proposed parcel(s) as adequate location and sight distance is available.

☐ Yes with conditions. The Grand Traverse County Road Commission would recommend approval for the proposed parcel(s). The conditions the GTCRC require are noted on page 2 and must be met prior to GTCRC driveway approval in order to provide for adequate location and sight distance for roadway connections.

☐ No. The Grand Traverse County Road Commission would not recommend approval for the proposed parcel(s) due to an inadequate location or sight distance.

**This letter is not intended as an approval for any driveway permits to this site, which is a separate application process.** Items may be noted on page 2 that the applicant should be prepared to address as the time a Driveway Permit application is submitted. Driveway Permit applications are available at the Grand Traverse County Road Commission office or on-line.

Thank you for the opportunity to review and comment on this proposed land division. Should you have any comments or questions concerning this matter, please contact us at your earliest convenience.

Reviewed By: Steven P. Bye, PS GTCRC Engineering Department Date: 4/23/2020

Large Engineering and Physical Applications: 1972-1981, 1982-1991, 1992-2001, 2002-2011, 2012-2021 and 2022-2031



\*The following is the proposed text of the proposed rule:

Parent Project ID Number: 28-13-13p-001-00

ID Applications: 24-17

Road Name: Bacon Road &amp; Lenoir Road

Public Works Dept.

### CONDITIONS AFFECTING THE PROPOSED LAND DIVISION APPROVAL

Referenced to Certificate of Survey by Parrier Surveying, Inc. File No. 3929 dated 04-21-20

1. Parcel "A" sufficient sight distance on Hays Road & Lennie Road
2. Parcel "B" existing driveway

### POSSIBLE CONDITIONS AFFECTING FUTURE DRIVEWAY PERMIT APPROVAL

The Grand Traverse County Road Commission observed the following conditions the applicant should be prepared to address at the time of a driveway permit application:

- 1.
- 2.
- 3.

There may be additional concerns or permits required depending on the application for proposed changes to the Grant



# Land Division Tax Payment Certification Form

GRAND TRAVERSE COUNTY TREASURER  
HEIDI SCHELPE  
400 BOARDMAN AVENUE STE 104  
TRAVERSE CITY MI 49684  
Monday-Friday 8:00AM - 5:00PM  
(231) 922-4735

Property Number: 13-136-001-10  
WHITEWATER TOWNSHIP

Property Address: LOSSIE RD  
WILLIAMSBURG MI 49690

## TAX HISTORY

Current year taxes are not turned over to the county until March 1 of the following year. You may need to contact the local unit treasurer for current year tax payment information.

TAX YEAR	TAX. VALUE	BASE TAX	BASE TAX DUE	INTEREST/FEES DUE	TOTAL DUE	LAST PMT
2019	37,173	901.15	0.00	0.00	0.00	12/05/19
2018	36,302	884.48	0.00	0.00	0.00	12/05/18
2017	35,556	860.15	0.00	0.00	0.00	12/04/17
2016	35,239	862.76	0.00	0.00	0.00	12/07/16
2015	35,134	862.65	0.00	0.00	0.00	12/11/15

### DESCRIPTION OF PROPERTY:

. W 1/2 OF NE 1/4 EXC S 500 FT LYING N OF HWY R/W EXC RD R/W. SEC 36 T28N R9W

☐ CERTIFICATION DENIED

The GRAND TRAVERSE County Treasurer's Office has found delinquent taxes on the parcel listed above and cannot issue a certification of tax payment.

TOTAL DUE AS OF: 04/23/2020 0.00  
PRE Denial Amt: 0.00

☐ CERTIFICATION APPROVED

Pursuant to PA 23 of 2019, the GRAND TRAVERSE County Treasurer's Office certifies that all property taxes and special assessments due on the above referenced parcel subject to the proposed division for five years preceding the date of the application have been paid. This certification does not include taxes or special assessments, if any, now in the process of collection by the City, Village or Township Treasurer.

Certified by: Saunders Date Certified: 4/23/2020

PROPERTY OWNER: MORRISON ORCHARDS  
PO BOX 148  
WILLIAMSBURG MI 49690

Certification Fee of \$5 collected: Check ☒ Cash ☐ Other ☐

# Land Division Tax Payment Certification Form

GRAND TRAVERSE COUNTY TREASURER  
HEIDI SCHEPPE  
400 BOARDMAN AVENUE STE 104  
TRAVERSE CITY MI 49684  
Monday-Friday 8:00AM - 5:00PM  
(231) 922-4735

Property Number: 13-136-001-00  
WHITEWATER TOWNSHIP

Property Address: 6653 BAGGS RD  
WILLIAMSBURG MI 49690

## TAX HISTORY

Current year taxes are not turned over to the county until March 1 of the following year. You may need to contact the local unit treasurer for current year tax payment information.

TAX YEAR	TAX. VALUE	BASE TAX	BASE TAX DUE	INTEREST/FEES DUE	TOTAL DUE	LAST PMT
2019	52,322	1,268.43	0.00	0.00	0.00	12/05/19
2018	51,096	1,244.92	0.00	0.00	0.00	12/05/18
2017	50,046	1,210.72	0.00	0.00	0.00	12/04/17
2016	49,600	1,214.40	0.00	0.00	0.00	12/07/16
2015	49,452	1,214.24	0.00	0.00	0.00	12/11/15

### DESCRIPTION OF PROPERTY:

6653 BAGGS RD E 1/2 OF NE 1/4 EXC S 500 FT LYING N OF HWY R/W ALSO EXC N 100 FT OF E 600 FT OF S 600 FT LYING N OF HWY R/W & EXC RD R/W. SEC 36 T28N R9W

☐ CERTIFICATION DENIED

The GRAND TRAVERSE County Treasurer's Office has found delinquent taxes on the parcel listed above and cannot issue a certification of tax payment.

TOTAL DUE AS OF: 04/23/2020 0.00

PRE Denial Amt: 0.00

☐ CERTIFICATION APPROVED

Pursuant to PA 23 of 2019, the GRAND TRAVERSE County Treasurer's Office certifies that all property taxes and special assessments due on the above referenced parcel subject to the proposed division for five years preceding the date of the application have been paid. This certification does not include taxes or special assessments, if any, now in the process of collection by the City, Village or Township Treasurer.

Certified by: Sarah Tan Date Certified: 4/23/2020

PROPERTY OWNER: MORRISON ORCHARDS  
PO BOX 148  
WILLIAMSBURG MI 49690

Certification Fee of \$5 collected: Check ☒ Cash ☐ Other ☐

## WARRANTY DEED

For the sum of \$165,000.00 WALTER U. COX and ANDREA L. COX, husband and wife, of 7421 Baggs Road, Williamsburg, Michigan 49690, hereby convey and warrant to MORRISON ORCHARDS, a Michigan general partnership, whose address is Route #2, 10107 U.S. 31 North, Williamsburg, Michigan 49690, the following lands and premises in Whitewater Township, Grand Traverse County, Michigan:

The Northeast quarter of Section 36, Township 28 North, Range 9 West, excepting the following described parcel: Commencing at a point which point is the intersection of the North and South one-quarter line and the North right-of-way line of Highway M-72; thence Easterly along said right-of-way line to the Westerly right-of-way line of Baggs Road; thence Northerly along said Westerly right-of-way line of Baggs Road 600 feet; thence Westerly parallel with the North right-of-way line of M-72 600 feet; thence Southerly parallel with the Westerly right-of-way line of Baggs Road 100 feet; thence Westerly parallel with the Northerly right-of-way line of M-72 to the North and South quarter line of said Section; thence Southerly on said North and South quarter line to the point of commencement.

Subject to restrictions and easements of record, subject to a right-of-way in favor of Cherryland Rural Electric Cooperative recorded in Liber 432, Page 292; subject to Farmland Development Rights Agreements as recorded in Liber 575, Pages 915 and 917, and subject to the rights of the public in that part of the premises taken, used, or deeded for street, road, or highway purposes.

This Deed is given in fulfillment of a certain Land Contract between the parties dated September 1, 1988. There are excepted from the warranties hereof any defects or other matters which have arisen, or may hereafter arise, out of the acts or omissions of persons other than the grantors herein after September 1, 1988, the date of the aforesaid Land Contract.

Transfer Tax: \$181.50

Signed at Traverse City, Michigan on December 9, 1992.

In the Presence of:

ROBERT H. WITKOP

PATRICIA L. BELL

Walter U. Cox

Andrea L. Cox

STATE OF MICHIGAN, County of Grand Traverse, ss, Traverse City, 11-2-92. I hereby certify that there are no Tax liens or Taxes held by the State or any individual against the within description, and all Taxes on same are paid for five years previous to the date of this instrument as shown by the records in my office. This does not apply taxes in the presence of witnesses by Township, City or Village. Grand Traverse County Treasurer

180824 677

18150

STATE OF MICHIGAN

COUNTY OF GRAND TRAVERSE

SS.

The foregoing instrument was signed and acknowledged before me on December 9, 1992, by WALTER U. COX and ANDREA L. COX.

*Patricia L. Bell*

PATRICIA L. BELL

Notary Public

Grand Traverse County, Michigan

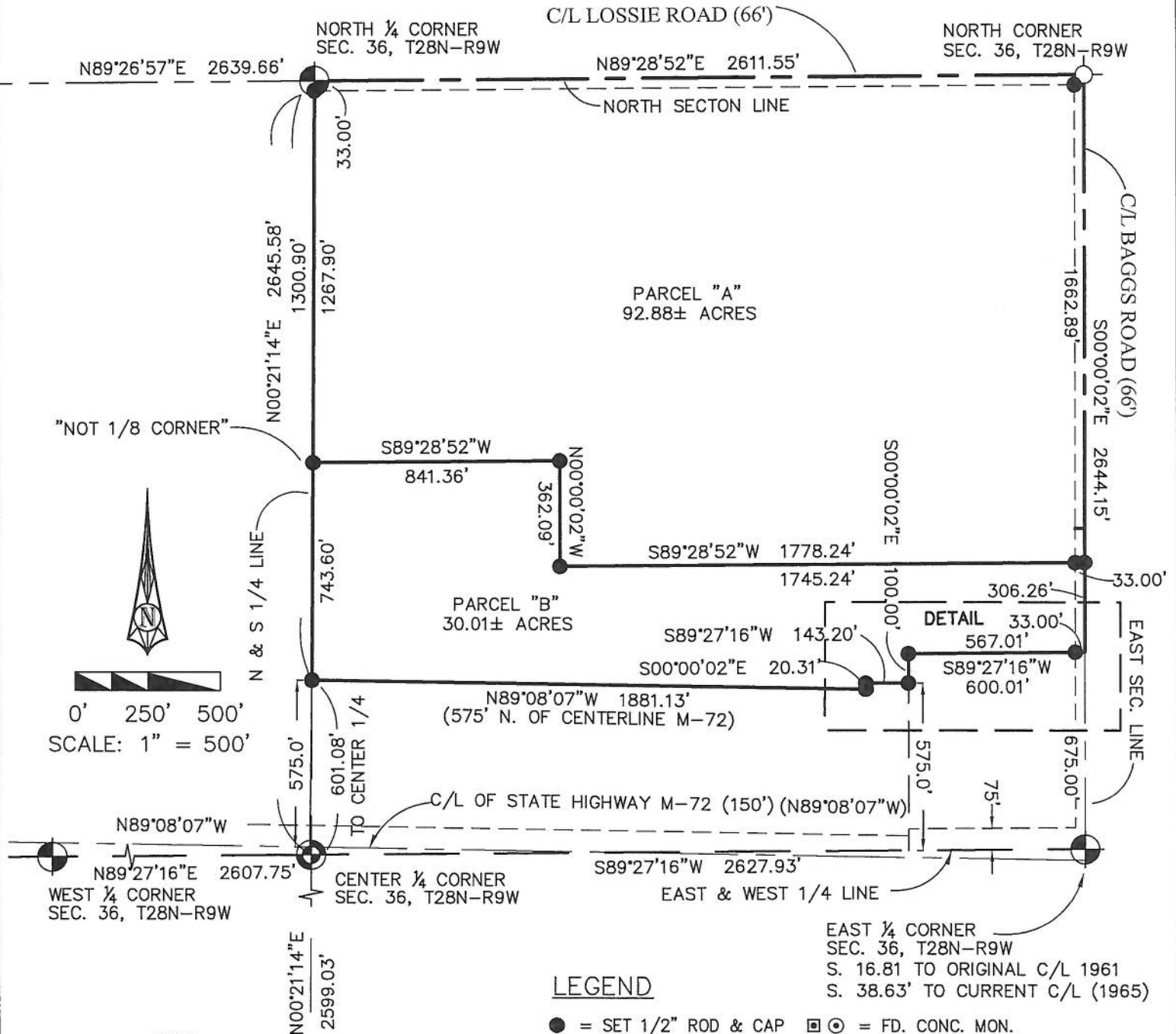
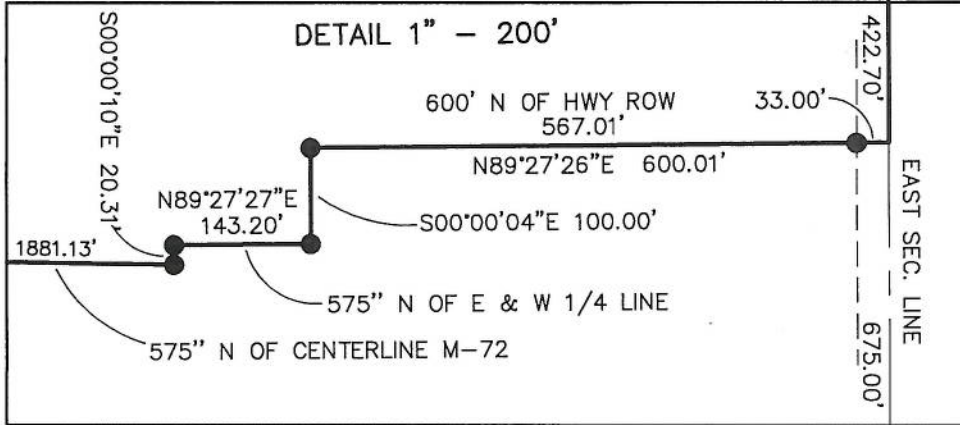
My commission expires: 2/13/96

Drafted by:  
James Stephen, II, Esq.  
Menmuir, Zimmerman, Kuhn,  
Stephen and Anderson  
122 West State Street  
Post Office Box 987  
Traverse City, MI 49685-0987  
Telephone: (616) 947-7900

*James Stephen, II*  
REGISTER OF DEEDS  
638 JAN 13 PM 1:52  
STATE OF MICHIGAN  
GRAND TRAVERSE CO.  
RECEIVED FOR RECORD

# CERTIFICATE OF SURVEY

... A CERTIFIED COPY ... SHALL BE RECORDED AT THE  
TIME OF RECORDING THE CONVEYANCE OF TITLE ... THE  
PART OF (SEC. 1(2), ACT 132 OF 1970 AS AMENDED.)



## LEGEND

- = SET 1/2" ROD & CAP
- = FD. FARRIER IRON
- = FD. IRON
- ▲ = SET NAIL
- △ = FD. NAIL
- ⊗ = FD. CONC. MON.
- ⊗ = SET CONC. MON.
- R = RECORD
- M = MEASURED
- PR = PRORATED

I, DEAN R. FARRIER, A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, CERTIFY THAT I HAVE SURVEYED AND MAPPED THE HEREON DESCRIBED PARCEL OF LAND, AND THE RELATIVE POSITIONAL PRECISION IS WITHIN 0.15 FEET FOR EACH OF THE CORNERS SHOWN HEREIN AND THAT I HAVE FULLY COMPLIED WITH THE SURVEY REQUIREMENTS OF ACT 132 OF 1970 AS AMENDED.

DEAN R. FARRIER

PS# 41098

DATE 4-21-20

BEARING BASIS: PREVIOUS FARRIER SURVEYING PROJECT No. 2420

**FARRIER SURVEYING INC.**  
P.O. BOX 998  
244 S. CEDAR STREET  
KALKASKA, MI 49646  
TEL(231)258-8162 FAX(231)258-3249  
office@farriersurveying.com

**CLIENT MORRISON ORCHARDS**

**DESCRIPTION**

PART OF THE NE 1/4,  
SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP,  
GRAND TRAVERSE COUNTY, MICHIGAN

**DRAWN: DES**

**FILE No. 3920**

**CHECK: DRF**

**Fd. Bk. 262, Pg. 5**

**REVISED:**

**DATE: 4/21/2020**

**SHEET: 1 of 2**

DESCRIPTION

PARCELS OF LAND SITUATED IN THE TOWNSHIP OF WHITEWATER, COUNTY OF GRAND TRAVERSE, STATE OF MICHIGAN DESCRIBED AS FOLLOWS TO-WIT:

DESCRIPTIONS AS FURNISHED  
TAX ID NO. 13-136-001-10

THE WEST ½ OF THE NORTHEAST ¼, EXCEPTING THE SOUTH 500 FEET LYING NORTH OF THE HIGHWAY RIGHT-OF-WAY AND EXCEPT ROAD RIGHT-OF-WAY, SECTION 36, T28N-R9W.

TAX ID NO. 13-136-001-00

THE EAST ½ OF THE NORTHEAST ¼, EXCEPTING THE SOUTH 500 FEET LYING NORTH OF HIGHWAY RIGHT-OF-WAY AND ALSO EXCEPT THE NORTH 100 FEET OF THE EAST 600 FEET OF SOUTH 600 FEET LYING NORTH OF HIGHWAY RIGHT OF WAY AND EXCEPT RIGHT-OF-WAY, SECTION 36, T28N-R9W.

DIVISION PARCEL DESCRIPTIONS  
PARCEL "A"

PART OF THE NORTHEAST ¼ OF SECTION 36, T28N-R9W DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE S00°00'02"E, 1662.89 FEET ALONG THE EAST LINE OF SAID SECTION 36; THENCE S89°28'52"W, 1778.24 FEET; THENCE N00°00'02"W, 362.09 FEET; THENCE S89°28'52"W, 841.36 FEET TO A POINT ON THE NORTH AND SOUTH ¼ LINE OF SAID SECTION 36; THENCE N00°21'14"E, 1300.90 FEET ALONG SAID NORTH AND SOUTH ¼ LINE TO A POINT ON THE NORTH LINE OF SAID SECTION 36; THENCE N89°28'52"E, 2611.55 FEET ALONG SAID NORTH SECTION LINE TO THE POINT OF BEGINNING. CONTAINING 92.88 ACRES MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY FOR LOSSIE ROAD AND BAGGS ROAD, AND ALSO SUBJECT TO EASEMENTS, RESERVATIONS AND RESTRICTIONS OF RECORD.

PARCEL "B"

PART OF THE NORTHEAST ¼ OF SECTION 36, T28N-R9W, EXCEPTING THE SOUTH 500 FEET LYING NORTH OF THE HIGHWAY RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 36; THENCE S00°00'02"E, 1662.89 FEET ALONG THE EAST LINE OF SAID SECTION 36 TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST SECTION LINE, S00°00'02"E, 306.26 FEET TO POINT ON THE NORTH LINE OF THE SOUTH 600 FEET LYING NORTH OF THE NORTH RIGHT-OF-WAY AND ; THENCE S89°27'16"W, 600.01 FEET PARALLEL TO THE EAST AND WEST ¼ LINE OF SAID SECTION 36 AND PARALLEL WITH AND 600.00 FEET NORTH OF THE NORTH RIGHT-OF-WAY STATE HIGHWAY M-72; THENCE S00°00'02"E, 100 FEET PARALLEL TO SAID EAST SECTION LINE; THENCE S89°27'16"W, 143.20 FEET PARALLEL TO SAID EAST SECTION LINE; THENCE S00°00'02"E, 20.31 FEET TO A POINT 575.00 FEET NORTHERLY OF THE CENTERLINE OF STATE HIGHWAY M – 72; THENCE N89°08'07"W, 1881.13 FEET PARALLEL TO SAID CENTERLINE OF M – 72 TO A POINT ON THE NORTH AND SOUTH ¼ LINE OF SAID SECTION 36; THENCE N00°21'14"E, 743.60 FEET ALONG SAID NORTH AND SOUTH ¼ LINE; THENCE N89°28'52"E, 841.36 FEET; THENCE S00°00'02"E, 362.09 FEET; THENCE N89°28'52"E, 1778.24 FEET TO THE POINT OF BEGINNING. CONTAINING 30.01 ACRES MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY FOR BAGGS ROAD, AND ALSO SUBJECT TO EASEMENTS, RESERVATIONS AND RESTRICTIONS OF RECORD.

FARRIER SURVEYING INC. P.O. BOX 998 244 S.CEDAR STREET KALKASKA, MI 49646 TEL(231)258-8162 FAX(231)258-3249 office@farriersurveying.com	CLIENT MORRISON ORCHARDS	DRAWN: DES	FILE No. 3920
	DESCRIPTION  PART OF THE NE 1/4, SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN.	CHECK: DRF	Fd. Bk. 262, Pg. 5
		REVISED:	DATE: 4/21/2020
			SHEET: 2 of 2
C:\DATA DRIVE\Carlson Projects\2020\3920 MORRISON\3920 MORRISON.dwg 4/21/2020 1:18:25 PM			



August 9, 2023

Zoning Board of Appeals  
Whitewater Township  
5777 Vinton Road  
Williamsburg, MI 49690

Dear Board Members:

**Re: Parcel Number 13-136-001-02 Variance Request**

This letter summarizes the background regarding the application to the Zoning Board of Appeals (the “ZBA”) to be heard on Thursday, August 24, 2023, at 7:00 p.m., for a variance request related to parcel number 13-136-001-02 (the “Parcel”). This letter also addresses the standards for reviewing variance requests under the Whitewater Township Land Division Ordinance (the “Ordinance,” attached as **Attachment A**).

**FACTS**

In 2020, a 125-acre parcel was divided and created the Parcel at issue, which is approximately 30 acres in size. The depth to width ratio is approximately 6:1—greater than 4:1 as approved at that time. The Parcel was sold a number of times between 2020 and 2022 before finally being sold to the current owners. On August 29, 2022, neighboring property owners Frank and Connie Hymore submitted a complaint regarding the validity of the split. Since February 2023, the Township devoted extensive time reviewing its ordinances and the nature of the division. At a special meeting on May 3, 2023, the Township Board made the following findings of fact (5/3/23, Minutes, included in Staff Report):

1. Request for variance is nonexistent.
2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.
3. No record of topographical or environmental adverse circumstances.
4. The ordinance is a local law, flawed or unflawed.
5. Following township ordinance is important to the greater good.



The Board determined that the Parcel is noncompliant with the Ordinance for failing to comply with the depth to width ratio. In the Board's review, the record was insufficient to establish an exemption. As a result, the Board held that zoning permits or building permits could not be issued for the nonconforming Parcel. *Id.*

Following that decision, on June 19, 2023, the Township received a request for a variance from the 4:1 depth to width ratio under Section 7(D) of the Land Division Ordinance. The variance request states:

We are appealing the May 3, 2023 administrative decision of the Whitewater Township Board that declared parcel 28-13-136-001-02 was non-compliant with the Whitewater Township general ordinance #26 Amendment 3, effective 3/19/2011, specifically; section 7(d) and is not eligible for any building permits or zoning approvals such as special land use approvals or site plan approvals and reconsider, reinstate and uphold the original land division approval of zoning administrator #2 seek a variance from the 4:1 depth to width ratio stated in section 7.D of the Ordinance No.26 [Land Division Ordinance]. (6/19/23, Application, included in Staff Report)

Supplemental materials were submitted on July 27, 2023, on behalf of the applicant and landowner (Owners Report for ZBA, included in Staff Report).

Since the ZBA does not have the authority to hear appeals of Township Board decisions, the Township Board construed the application as a request for a variance. At its June 20, 2023, meeting, the Board directed the ZBA to hear the application for variance (**Attachment B**, 6/20/23, Minutes). See also MCL 125.3603(1) (The ZBA “shall also hear and decide on matters referred” to it).

## STANDARDS FOR CONSIDERATION

Section VII of the Ordinance states that to approve a land division “[t]he ratio of depth to width of any parcel created by the division **does not exceed a four to one ratio** exclusive of access roads, easements, or non-buildable parcels . . . .” Ordinance, Section VII(D) (emphasis added). The same subsection provides that a “person designated” may “approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.” *Id.*

Section VIII allows for departure from the requirements of the Ordinance where “there are practical difficulties in the way of carrying out the strict letter of this Ordinance . . . .” Specifically, the Ordinance states “the Township Board, or its designee, shall have the power to vary or modify

the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done.” Ordinance, Section VIII.

A variance is “in essence, a license to use property in a way that would not be permitted under” an ordinance. *Frericks v Highland Twp*, 228 Mich App 575, 582 (1998). It grants permission for a specific deviation and exception from the typical ordinance requirements. The Ordinance, Section VIII, lists the following standards for approval of a variance, which must be established with evidence at a public hearing:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land. [Ordinance, Section VIII (emphasis added)]

## **ZONING PRINCIPALS GUIDING THE VARIANCE REQUEST**

The ZBA is **not** considering the variance request under the Zoning Ordinance; rather it must consider the variance request under the Land Division Ordinance. Still, several aspects of a zoning variance are present in the land division variance criteria.<sup>1</sup> Therefore, the ZBA may consider interpretations regarding zoning ordinances and prior variance decisions under the Zoning Ordinance in interpreting and understanding the standards set forth by the Land Division Ordinance.

### ***Exceptional or Extraordinary Circumstances***

One condition the ZBA must consider is the existence of “[e]xceptional or extraordinary circumstances” such as topographical or physical conditions. Michigan courts have considered “exceptional or extraordinary circumstances” in the zoning context. In one case, the Court found “exceptional or extraordinary circumstances existed” when a property owner was unable to meet

---

<sup>1</sup> For example, a “majority of the members of the zoning board of appeals” is required “to grant a [nonuse] variance in the zoning ordinance.” MCL 125.3603(2). Likewise, although this action is under the Land Division Ordinance, a majority of the Board is also required to grant this variance. See MCL 8.3c.

a critical dune zone, excessive dune slopes in the rear yard, and MDEQ building restrictions. *Risko v Grand Haven Charter Twp Zoning Bd of Appeals*, 284 Mich App 453, 454-55, 457, 459 (2009). These circumstances satisfied the criteria in the context of a variance request from a 50-foot setback. *Id.*

In another case, a variance was appropriate where 60% of the property was in a floodplain and 45% to 50% was wetlands. *Engel v Monitor Twp Zoning Bd of Appeals*, unpublished per curiam opinion of the Court of Appeals, issued September 13, 2016 (Docket No. 327701). These conditions constituted a practical difficulty from “exceptional topographic conditions or other extraordinary situation of the land.” *Id.*

### ***Unreasonably Prevent Development or Is Unreasonably Burdensome***

As a general rule, all regulation is burdensome in some sense; the mere fact of a burden does not rise to “unnecessarily burdensome.” For example, a size restriction on signs affected and burdened all commercial property owners similarly and was not unreasonable because it promoted safety and aesthetic goals. *Norman Corp v City of East Tawas*, 263 Mich App 194, 204 (2004).

In one case, a church sought a variance from a ban on the demolition of buildings located within the historical districts. *Heritage Hill Ass’n, Inc v City of Grand Rapids*, 48 Mich App 765, 767 (1973). The church, on behalf of the landowners, proposed to demolish an adjacent four-unit apartment to relieve parking and seating problems at the church. *Id.* The apartment was nearly vacant and next to impossible to rent. *Id.* at 770. In addition, the apartment building had attempted to sell on three occasions and had been appraised at \$22,000, but the best offer received was only for \$15,000. The church offered to purchase it for \$26,000. *Id.* at 771. The Court determined that a hardship existed. *Id.* The owner’s various unsuccessful attempts to otherwise dispose of the apartment property at a reasonable and fair market price supported the practical difficulty and showed the regulations in context were unreasonably burdensome. *Id.*

In another case, the construction of a private road—instead of a public road—was a proper variance because strict conformance would prevent development and was unreasonably burdensome. Four parcels had an access easement and also evidenced some unique topography including a ravine and a creek. *Swieckicki v City of Dearborn & Da’Fish Enterprises*, unpublished per curiam opinion of the Court of Appeals issued September 12, 2006 (Docket Nos. 262892 & 263066). The property was zoned for single family residential but without a variance, the owner could not construct a single home. *Id.* Without the “private road, Lot D could never be developed for any purpose.” *Id.* The Court affirmed the grant of the variance.

Finally, the last two categories—adverse impact as well as health and safety—extend beyond the zoning variance context and will be considered in the next section.

## PREVIOUS APPLICATIONS OF THE VARIANCE STANDARDS

The ZBA has considered three variances under the Land Division Act in the years 2010, 2012, and 2013. Generally, “an administrative agency may reexamine its prior decisions” for analytical guidance or to determine existing precedent. See *Melvindale-Northern Allen Park Federation of Teachers, Local 1051 v Melvindale-Northern Allen Park Pub Sch*, 216 Mich App 31, 37 (1996). A decision is more likely to be upheld if the rationale for following the prior decisions is articulated or the departure from previous decisions explained. Michigan Administrative Law § 4:20 (2019). The ZBA may review its prior interpretations of the Land Division Act and application of variance conditions to guide its interpretation of the facts and standards in the case at hand.

In 2010, the ZBA approved a variance request related to the width to depth ratio of a parcel, but required that the width to depth ratio not exceed more than 1:17 (**Attachment C**, ZBA Draft Minutes, 11/10/2010, and associated documents). In this case, there was wetland in the east portion of the property. The drain field was required to be set well-off the shoreline to satisfy regulations. These contributed to 700 feet of depth being required for the property to develop. Additionally, two adjacent parcels were seeking or already had a similar configuration. The ZBA found that the ratio “is consistent with the area” and found that “there are exceptional topographical or physical conditions” related to the existence of wetlands in the area.

In 2012, the ZBA granted a variance to allow a width to depth ratio of 1:6.18 on a parcel (**Attachment D**, ZBA Minutes, 12/18/2012, and associated documents). It also sought a lot width of 84 feet—a 16 foot variance from the 100 foot minimum lot width requirement. The Zoning Administrator found that exceptional or extraordinary circumstances existed and that strict compliance with the requirement would be unreasonably burdensome because all parcels on the south side of the property exceeded the 1:4 ratio. The Zoning Administrator also found that the variance would not cause an adverse impact to the development of surrounding property, property values, or use and enjoyment of the properties in the area because the lots in the area ranged from 70 feet to 100 feet in width, and that the creation of two lots with 84 feet in width would not have an adverse impact on the area. Health, safety, and welfare would not be compromised because only 70- to 100-foot-wide lots were buildable due to regulated wetlands encompassing most of the area’s parcels. Finally, the Zoning Administrator found that the requested variance is the minimum necessary for reasonable use of the land because “[o]ther split options would create one more non-conforming lot.” The ZBA granted both the lot width variance and the depth-to-width ratio variance.

In 2013, the ZBA granted a variance from the 1:4 ratio requirement on a parcel with a complex history. It was purchased in 1979 and then combined in 1992 for unknown reasons and apparently without the knowledge of the applicant (**Attachment E**, ZBA Minutes, 2/19/2013, and associated documents). The Zoning Administrator had found that granting the variance was not contrary to

the public interest because the parcels were combined with a 1:4 ratio, but erosion and collection of eroded material had increased the length of a portion of the parcel. The Zoning Administrator found that granting the variance would not have an adverse effect on property in the area because other parcels in the area had dimensions similar to the parcel at issue.

### ***Adverse Impact & Health and Safety***

With these prior local ZBA cases in mind, we return to the next two standards in the variance consideration. They are broad in scope and specific to the neighborhood. An adverse impact on surrounding development, property values, or the use and enjoyment of property in the immediate area broadly considers all three factors for the parcels in the area. If the totality of the impact is neutral or positive, then there would be no adverse impact.

Health, safety, and welfare are similarly broad. Safety and health concerns are more concrete, connecting to physical dangers or risks. For example, one request considered the health impacts of the drain field location. Other existing developments might consider the location or availability of water or sewer service. Since the parcel at issue is vacant, these concerns are less prevalent here. Because the proposed development itself is not for consideration here, however, we recommend that the ZBA consider not how any proposed development would impact these factors but only how the land division itself would affect the health, safety, and welfare of the Township area.

In contrast to the more concrete health and safety, welfare is more challenging to conceptualize. Black's Law Dictionary defines "welfare" as "[w]ell-being in any respect; prosperity." *Black's Law Dictionary*, 11<sup>th</sup> ed. "Welfare" is also defined as "state of doing well especially in respect to good fortune, happiness, well-being, or prosperity," *Merriam Webster Dictionary* (online), and as "Health, happiness, and good fortune; well-being," *The American Heritage Dictionary* (online). As the various definitions show, this condition is very broad and allows the ZBA to consider a number of different factors relating to the division. Again, if the totality of the impact to well-being is neutral or positive, then the variance would be consistent with the community welfare.

## **REACHING A DECISION**

We have also included a form that the ZBA can utilize in making its decision (**Attachment F**). The relevant background and history are included as well as the variance standards from the Ordinance. The ZBA should carefully consider each of the factors and deliberate on whether each standard is met and what facts support each decision. Every member need not agree on each factor or analysis; rather the majority rules. After each standard, space is provided for the ZBA to clearly identify the facts applicable to each standard. How the current request is similar or different from other variance requests can also be articulated. The final determination for each factor should be included.



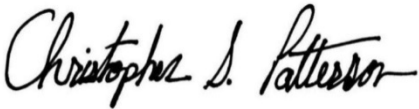
## CONCLUSION

The ZBA is permitted to consider only the conditions under Section VIII of the Land Division Ordinance. In interpreting the Land Division Ordinance, it may use familiar legal principles in the zoning context to apply by analogy to the Land Division Ordinance. It may also reference the historical application of the standards in the three prior variance requests attached as exhibits.

In conclusion, the ZBA must review the information submitted by the Applicant, the public, and other interested parties to determine whether the evidence establishes exceptional topography or physical conditions; that it would be compatible with the surrounding lands; that conformity would be unreasonably burdensome; that it will not cause an adverse impact to surrounding property; that community welfare remains protected; and that any variance from the width-to-depth ratio is the minimal necessary to be appropriate for the Parcel.

Please reach out with any questions or concerns on this matter.

Sincerely,



**CHRISTOPHER S. PATTERSON**  
**MEMBER**

Direct: 517.381.3205

[cpatterson@fsbriaw.com](mailto:cpatterson@fsbriaw.com)

CSP/kjm

Enclosures

# ATTACHMENT A

**TOWNSHIP OF WHITEWATER**  
**COUNTY OF GRAND TRAVERSE – STATE OF MICHIGAN**

**ORDINANCE NO. 26**

Adopted May 20, 1997

Effective June 26, 1997

**LAND DIVISION ORDINANCE**

Amended July 19, 2005

Amended December 16, 2008

Amended February 8, 2011

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict therewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

**TOWNSHIP OF WHITEWATER**  
**GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:**

**SECTION 1**

**TITLE**

This ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

**SECTION II**

**PURPOSE**

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the Township, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

### **SECTION III**

#### **DEFINITIONS**

For purposes of this ordinance certain terms and words used herein shall have the following meaning:

- A. "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- B. "Divided" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.
- C. "Exempt split" or "exempt division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- E. "Governing body" – The Whitewater Township Board.

### **SECTION IV**

#### **PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the township assessor and township zoning administrator, or other official(s) designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Township's Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Township's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

**SECTION V**  
**APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Township Clerk or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. A completed application form on such form as may be provided by the Township.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section V.

The governing body or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of this Ordinance, all divisions shall result in "buildable" parcels containing

sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available) , and maximum allowed area coverage of buildings and structures on the site.

I. The fee as may from time to time be established by resolution of the governing body for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

## **SECTION VI**

### **PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL**

A. Upon receipt of a land division application package, the Township clerk or other official designated by the governing body shall forthwith submit the same to the township assessor and township zoning administrator or other designated official(s) for decision. The township assessor and township zoning administrator or other designee(s) shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the assessor and zoning administrator or other designee (s) shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the assessor and zoning administrator or designee(s) may, within 30 days of said decision appeal the decision to the Governing Body or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Township clerk or other designated official accomplishing the approved land division or transfer.

D. The township assessor and township zoning administrator or designee(s) shall maintain an official record of all approved and accomplished land divisions or transfers.



## **SECTION VII**

### **STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section IX of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum lot (parcel) width shall be defined in the Whitewater Township Zoning Ordinance.

## **SECTION VIII**

### **VARIANCES**

Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance the Township Board, or its designee, shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public

safety secured and substantial justice done. The Township Board, or its designee, may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

- In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:
- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land.

Further, in the event that a variance is granted under this Section, said variance and any conditions, if applicable, shall be recorded with the Grand Traverse County Register of Deeds by the seller and/or proprietor.

## **SECTION IX**

### **ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS**

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the Township, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.
- B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in

either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act.

## **SECTION X**

### **CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT**

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in Section XI of this ordinance, and as may otherwise be provided by law.

## **SECTION XI**

### **PENALTIES AND ENFORCEMENT**

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

## **SECTION XII**

### **SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part of portion thereof.

## **SECTION XIII**

### **REPEAL**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Grand Traverse County Building Code.

## **SECTION XIV**

### **EFFECTIVE DATE**

This ordinance shall take effect 30 days following its publication after adoption.

**TOWNSHIP OF WHITEWATER**

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**Sandra Beckwith, Clerk**

May 20, 1997

# ATTACHMENT B

*Approved 07/11/2023 - CG*

**Whitewater Township Board  
Minutes of Special Meeting held June 20, 2023**

**Call to Order**

Supervisor Popp called the meeting to order at 9:02 at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan.

**Roll Call of Board Members**

Board members present in person: Clerk Goss, Treasurer Benak, Trustee Glenn, Trustee Vollmuth, Popp

Board members absent: None

Others present in person: 4

Others present via Zoom: 11

**Set/Adjust Meeting Agenda**

There were no adjustments.

**Declaration of Conflict of Interest**

None

**Public Comment**

Public comment began at 9:02 a.m.

Vicki Beam

Derek Van Solkema

Public comment ended at 9:08 a.m.

**Agenda Items as Listed in Special Meeting Notice**

**DISCUSS ATTORNEY TALKING POINTS RE: 6631 BAGGS RD APPEAL PROCESS AND 05/25/2023 ATTORNEY MICHAEL HERRING E-MAIL (POSSIBLE CLOSED SESSION)**

*Motion by Goss to enter closed session pursuant to MCL 15.268(1)(h) to discuss a confidential written legal opinion from the township attorney regarding township land division, the township land division ordinance and specifically parcel 13-136-001-02 at 6631 Baggs Road, Williamsburg Michigan; second by Benak.*

***Roll call vote: Vollmuth, no; Benak, yes; Popp, no; Glenn, yes; Goss, yes. Motion failed.***

Discussion followed.

Attorney Chris Patterson commented via Zoom.

***Motion by Popp to reconsider the move to go into closed session pursuant to MCL 15.268(1)(h) to discuss a confidential written legal opinion from the township attorney regarding township land divisions, the township land division ordinance and specifically parcel 28-13-136-001-02 at 6631 Baggs Road, Williamsburg Michigan; second by Goss.***

*Whitewater Township Board – Minutes of 06/20/2023*



***Roll call vote: Goss, yes; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, yes. Motion carried.***

At 9:20 a.m., the open session recessed.

At 11:21 a.m., the open session reconvened.

***Motion by Goss to exit closed session and reopen the public portion of the township board meeting; second by Vollmuth.***

***Roll call vote: Benak, yes; Glenn, yes; Goss, yes; Vollmuth, yes; Popp, yes. Motion carried.***

***Motion by Goss to accept the applicant's request to pursue a variance before the ZBA and direct the ZA to accept the application and send all relevant information to the ZBA for hearing the application; second by Benak.***

Discussion followed.

***Roll call vote: Popp, yes; Goss, yes; Vollmuth, no; Benak, yes; Glenn, yes. Motion carried.***

#### **ANY MATTER PERTAINING TO PARKS/RECREATION OPERATION**

***Motion by Glenn to approve Old M-72 LLC to perform reshape and spot gravel work at township park campground roads at a cost not to exceed \$2,000; second by Benak.***

***Roll call vote: Glenn, yes; Popp, yes; Benak, yes; Goss, yes; Vollmuth, yes. Motion carried.***

#### **Public Comment**

Public comment began at 11:33 a.m.

Connie Hymore  
Vicki Beam  
Linda Slopsema  
Derek Van Solkema

Public comment ended at 11:39 a.m.

#### **Board Comments/Discussion**

Benak reminded everyone that newsletter articles are due by Friday.

#### **Adjournment**

***Motion by Popp to adjourn; second by Glenn. Roll call vote: Benak, yes; Vollmuth, yes; Popp, yes; Glenn, yes; Goss, yes. Meeting adjourned at 11:40 a.m.***

Cheryl A. Goss  
Whitewater Township Clerk

# ATTACHMENT C

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
AGENDA FOR RE-SCHEDULED REGULAR MEETING

November 10, 2010

7:00 pm.

Whitewater Township Hall

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

Phone 231-267-5141/Fax 231-267-9020

- Call to Order
- ✓ Roll Call
- ✓ Set/Adjust Agenda
- ✓ Public Comment
- ✓ Approval of Minutes of 6/15/10 Regular Meeting

Business Session


- 1) Public Hearing on Appeal #A4-10, Glory E. Wiltjer; 13-123-025-00; 8109 Skegemog Point Road, Williamsburg, MI 49690

Open Public Hearing

- ✓ Zoning Administrator Presentation
- ✓ Petitioner Presentation
- ✓ Report on Site Visit
- ✓ Correspondence
- ✓ Public Speaking in Favor of Appeal
- ✓ Public Speaking in Opposition of Appeal
- ✓ Anyone in Attendance Who Wish to Speak on This Appeal - Kim Hallstead
- ✓ Close Public Hearing 7:40
- ✓ Discussion on Appeal
- ✓ Findings of Fact
- ✓ Conclusion
- ✓ Reasons for Conclusion
- ✓ Decision
- ✓ Motion

Zoning Administrator Report

Adjournment

1. Reasonably compatible w/surrounding lands
2. Allowed to grant greater than  1 to 4
- 3.

**D R A F T**  
**Whitewater Township Zoning Board of Appeals**  
**Minutes of 11/10/2010 Regular Meeting**

**Call to Order**

Millar called meeting to order at 7:00

**Roll Call**

Members Present: Benak, Bowen, Miller, Lake and Millar

Members Absent: None

Also Attending: Planning/Zoning Administrator Meyers,  
Recording Secretary MacLean, recognize Don Fedrigon  
Representing Glory Wiltjer, plus one member of audience

**Set/Adjust Agenda**

No changes.

**Public Comment – None**

**Approval of Minutes**

Bowen motioned for approval, seconded by Miller, to approve the 6/15/10 Regular Meeting Minutes.

**Motion Approved 5-0.**

**Business Session:**

**Item 1:**

**Public Hearing on Appeal #A4-10, Glory E. Wiltjer; 28-13-123-025-00;  
8109 Skegemog Pt. Rd., Williamsburg, Michigan. (application attached)**

Hearing to request exemption from Article VII (D) Width to Depth Ratio, of the Whitewater Township General Ordinance #26 – Land division. Applicant is requesting to create a parcel of land that will measure 100' in width at Skegemog Rd. and have a depth of approximately 1700', resulting in a width to depth ratio of not more than 1:17.

**Open Public Hearing**

Millar opened the public hearing at 7:03.

**Zoning Administrator Presentation – report attached.**

Notice of Public Hearing posted October 21, 2010.

Letters of notification sent to property owners of 11 nearby parcels.  
(notice and list attached)

Background information on the property:

This parcel is a metes and bounds parcel consisting of 18.04 acres.

Parcel is currently 360' wide by an average of 1638' deep. The north property line is 1736.67'

And the south property line is 1574'.

The parcel is zoned R-1 Residential.

The parcel currently contains a home with associated outbuildings.

The driveway provides access to the property and the Taylor parcel, directly to the south.

The current residence was built in 1962.

**Zoning Department Findings:**

Land Division Ordinance #26 is a general ordinance. The current Ordinance allows for a 1:4 ratio and further allows for a greater ratio if specific standards in the Ordinance are met, as stated in Section VII (D).

The Skegemog Point overview area shows the proposal is reasonably compatible with the surrounding area.

The Township Fire Chief was consulted about the ability to adequately provide fire protection to the area. After many discussions the fire chief respectfully requests that either the new home be constructed with a residential sprinkler system or that an additional 1000' of fire hose be provided to the Fire Department.

The Department recommends approval of the request for a variance from General Ordinance #26 Section VII (D) for a width to depth variance not to exceed 1:17 based on the following conclusions:

1. Granting the variance will not be contrary to the public interest nor the spirit and intent of the ordinance.
2. Granting the variance will not cause any significant adverse effect to property in the vicinity.
3. The requested variance is the minimum necessary variance.
4. The practical difficulty is not self created.
5. The greater ratio is very compatible with the area.

With a contingency on the provision that a residential sprinkler system be installed in the future residence or 1000' of fire hose be provided to the fire department.

Discussion: The proposed parcel would be about 5.5 acres. It meets the 100' road width requirement. It is a width to depth ratio issue. The house to the south (Taylors) uses the existing driveway. One more house, making 3, wouldn't be a serious burden. If there is a fourth house, then it would have to be a road and meet road standards. There are legal easements in place.

Miller: Question and concern about a legal document regarding who is going to maintain the drive.

Meyers: There could be a maintenance agreement.

Fedrigon: This has been discussed and it would not be a problem. The main driveway is only paved 9' wide but you can get two trucks past each other. Can get something in writing if necessary. Fire suppression is a good idea in municipal water system area. Not realistic with a winterized home. Question the 1000' of hose. Possible buried plastic pipe? Dry hydrant?-probably not Drop a hose into the lake? Pave or gravel a turn out in the driveway.

Meyers likes the maintenance idea. It provides legal grounding for future problems regarding the drive.

Benak: Who paid for the paving? Who keeps the drive plowed now? Would the Taylors keep a turn out plowed?

#### **Petitioner Presentation**

Don Fedrigon, representative for Glory Wiltjer. Road maintenance and turn out seems reasonable. Additional topography, east of existing Taylor drive is wetland area. The drain field and replacement field would be up the hill. Additional depth is required for parking.

#### **Report on Site Visits**

Miller: It is a nice road like driveway; can see that it is better than many in the area. I question the fire suppression system.

Bowen: Questioning the fire suppression issue, this is really a size / ratio issue for our board. The property cannot be split any other way. This is the way property is on Skegemog Point Road.

#### **Correspondence**

None.

#### **Public Speaking in favor of Appeal:**

None

#### **Public Speaking in Opposition of Appeal:**

None.

#### **Anyone in attendance wishing to speak on this appeal:**

Kim Halstead: It is better than most (the driveway). There is no need to take out trees to get the fire trucks down there, has plenty of open space all the way down. No need for fire suppression. Restrictions like that on a person's property should not be there, in my opinion.

**Close Public Hearing on Appeal #A4-10 at 7:40 p.m.**

**Discussion on Appeal:**

Millar: The variance request relates to width to depth ratio. Not sure what to do about the fire issue. Increasing the number of parcels / homes increases the odds of a fire but nothing else has changed. One of the questions we are to ask is if the property cannot be used without the variance. Should she just sell all or none of the property.

Lake: Is there a question about sanitary and sewer ? That is handled by the County Health Department.

Bowen: A 1:17 ratio is considerably different than the 1:4 ratio.

Miller: When you look at the map, every property looks like a bowling alley.

Fedrigon: The Land Division Act of 1997 was not implemented for water front property.

Millar: This is a planning issue.

Benak: The drive just south would not get a fire truck down. Fire chief is asking for more than anyone has been asked to do. There is adequate room on the drive now.

Bowen: 1:4 ratio is by state law with provisions

Miller: As an ex-fire fighter, this drive way is not a problem.

Millar: In the purchases best interest to deal getting a fire truck in. They will have to deal it themselves. I suggest we review our land division ordinance. I am coming to terms with what is being asked here. Can we live with the ratio? It is similar to all surrounding properties.

Bowen: Is the fire issue this board's problem? Is it in our realm? I don't think so. The property dimensions are in line with area properties.

Millar: Do we want to grant this ratio to be no greater than 1:17?

Miller: Are we going to require a maintenance agreement? Unanimous: No

Millar: We can strongly suggest or recommend a maintenance agreement or a turn out on the drive.

Bowen: It is not our issue

Motion by Miller to grant applicant's request for width to depth ratio to be not more than 1:17 as it is consistent with the area and because there are exceptional topographical or physical conditions, seconded by Benak.

Roll call vote, a yes vote will be in favor of granting width to depth ratio:

Millar-yes, Miller-yes, Lake-yes, Benak-yes, Bowen-yes. **Motion Approved 5-0.**

**Zoning Administrator Report: Attached**

With no other matters to discuss, Millar adjourns the meeting at 8:10 p.m.

Respectfully submitted by  
Lois MacLean  
Recording Secretary



Planning/Zoning Administrator Report  
Zoning Board of Appeals

Case No: A4-10

Applicant: Glory E. Wiltjer

Property Address: 8109 Skegemog Point Road

Tax ID: 28-13-123-025-00

Zoning Classification: R-1, Residential

Hearing Date: November 10, 2010

Request

The applicant Glory E. Wiltjer is requesting an exemption from Article VII (D) Width to Depth Ratio, of the Whitewater Township General Ordinance #26 – Land Division. The applicant is requesting to create a parcel of land that will measure 100' in width at Skegemog Point Road and have a depth of approximately 1700' resulting in a width to depth ratio of not more than 17:1. The driveway from the current parcel is proposed to be shared with the newly proposed parcel.

Background Information

- This parcel is a metes and bounds parcel consisting of 18.04 acres.
- Parcel is currently 360' wide by an average of 1638' deep. The North property line is 1736.67' while the South property line is 1574'.
- The parcel is zoned R-1 Residential.
- The parcel currently contains a home with associated outbuildings.
- The driveway provides access to the property and the Taylor parcel directly to the south.
- The home was built in 1962.

Zoning Department Findings:

In late 2008 the Planning Commission and Township Board worked on updates to our Land Division Ordinance - #26. This Ordinance is a general ordinance. Prior to the update, land divisions were limited to a 1:3 width to depth ratio (i.e. a 100' wide parcel was limited to a MAXIMUM depth of 300'). This limited divisions in some areas but required clear cutting and unnecessary destruction in others. From a land preservation standpoint, many of our natural resources could be preserved if we allowed for exceptions to the ratio in certain circumstances. The current Ordinance allows for a 1:4 ratio and further allows for a greater ratio if the specified standards in the Ordinance are met.

Section VII (D) states as follows:

"The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands."

The Township Board has designated the ZBA the task of being the designated body. The rationale was that the ZBA has the time to devote to a thorough review and the ability to place certain conditions on a proposal.

I have attached a copy of the Skegemog Point overview area. As you can see the proposal is reasonably compatible with the surrounding area (highlighted in light blue).

The fire chief was consulted about the ability to adequately provide fire protection to the area. Since a driveway (not a road) will provide the only access to the newly created parcel, fire protection will prove difficult in the event of a large scale emergency. After many discussions he respectfully requests that either the new home be constructed with a residential sprinkler system or that an additional 1000' of fire hose be provided to the Fire Department.

Therefore, the Department recommends approval of the request for a variance from General Ordinance #26 Section VII (D) for a width to depth variance not to exceed 1:17 based on the following conclusions:

- Granting the variance will not be contrary to the public interest nor to the spirit and intent of this Ordinance.
- Granting the variance will not cause any significant adverse effect to property in the vicinity.
- The requested variance is the minimum necessary variance
- The practical difficulty is not self created.
- The greater ratio is very compatible with the area.

( This approval to be contingent on the provision that a residential sprinkler system be installed on the future residence or 1000' of fire hose being provided to the fire department. )

( no - too much of a hardship )

# Zoning Board of Appeals Application

## WHITEWATER TOWNSHIP

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

Case No. 10-05  
Date Rec. 9/3/10  
Fee \$250.00

### Property Information

Parcel Number 28-13-123-025-00  
Address: 8109 Skegemog Point Road, Williamsburg, MI 49690

### Property Owner Information

Name Glory E Wiltjer  
Address 8109 Skegemog Point Road Williamsburg, MI 49690  
Phone: 267-5522 Fax: Same (Call First)

### Applicant Information

Name Glory E Wiltjer  
Address 8109 Skegemog Point Road, Williamsburg, MI 49690  
Phone: 267-5522 Fax: Same: (Call First)

### Request

Variance X Appeal \_\_\_\_\_ Interpretation \_\_\_\_\_ Other \_\_\_\_\_

### Description of request

It has become necessary for me to sell more property in the length of this parcel than the zoning ordinance requires considering the width. Because there is wetland to the east of this property and in order to have a drainfield at an acceptable distance from the shoreline the DNRE regulations dictate that we need no less than 700' feet in depth. I cannot sell enough feet in width to comply with the township ordinance of width and depth regulations as it would overtake our existing home.

Properties on both sides of this parcel for which we are seeking a variance extend from the shoreline of Elk Lake to the East at Skegemog Point Road. This variance would make all three parcels equal in depth.

I hereby attest that the information on this application form is, to the best of my knowledge, true and accurate.

Glory E. Wiltjer  
Signature of Applicant

10-1-10  
Date

I hereby grant permission for members of the Zoning Board of Appeals and the Zoning Administrator to enter the above described property for the purposes of gathering information related the this application.

Glory E. Wiltjer  
Signature of property owner

10-1-10  
Date

**Glory E. Wiltjer**  
8109 Skegemog Point Road ~ Williamsburg, Mi ~ 49690 ~ 231-267-5522

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September 30, 2010

To: Whitewater Township Zoning Board

I request and give permission for Don Fedrigon, Jr. to act in my behalf during the board's meeting to consider the variance request on my property at 8109 Skegemog Point Road, Williamsburg, MI

We will be out of town at the time of the meeting and would like to have Mr. Fedrigon represent us.

Thank you.

*Glory E. Wiltjer* 9-30-10  
Glory E. Wiltjer

**NOTICE OF PUBLIC HEARING – RESCHEDULED REGULAR MEETING**  
**Whitewater Township Zoning Board of Appeals**

The Whitewater Township Zoning Board of Appeals will conduct a public hearing on November 10, 2010 at 7:00 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, MI.

The Public Hearing will be to consider the following:

The applicant Glory E. Wiltjer is requesting an exemption from Article VII (D) Width to Depth Ratio, of the Whitewater Township General Ordinance #26 – Land Division. Specifically the applicant is requesting to create a parcel of land that will measure 100' in width at Skegemog Point Road and have a depth of 1703.70 resulting in a width to depth ratio of 17:1. The driveway from the current parcel is proposed to be shared with the newly proposed parcel.

The proposed parcel is located south of 8109 Skegemog Point Road. Parcel #28-13-123-025-00.

All persons are welcome and will be heard concerning the request. A copy of the application and the Township Zoning Ordinance and Zoning Map are available for public viewing and/or purchase at the Township Hall, 5777 Vinton Road, Williamsburg MI 49690, telephone (231) 267-5141, during regular office hours.

Written comments will be received until the time of the meeting and should be addressed to Todd Millar, Chairman, Whitewater Township Zoning Board of Appeals (ZBA), PO Box 159, Williamsburg, MI 49690.

Whitewater Township will provide necessary reasonable auxiliary aid and services to individuals with disabilities and who plan on attending. Contact the Township Clerk at (231) 267-5141 or call (231) 922-4760 (TDD 946-4412) as soon as possible.

October 21, 2010 1T

# Glory E. Wiltjer

8109 Skegemog Point Road ~ Williamsburg, Mi ~ 49690 ~ 231-267-5522

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November 3, 2010

Ms. Leslie Meyers  
Whitewater Township  
Planning/Zoning Administrator  
5777 Vinton Road P.O. Box 159  
Williamsburg, MI 49690

Dear Ms. Meyers:

Thank you for taking the time to allow me to express my concerns about the recent request by the Grand Traverse Rural Fire Department Battalion #3 to suggest one of three new stipulations be placed on the property that I have for sale at 8109 Skegemog Point Road.

It is my understanding that the request is for one of three options and that any one of these stipulations will satisfy the request.

1. That a residential sprinkler system be installed in any new home built on the property.
2. That a 1000' 5" supply hose be provided to the GTRFD Battalion #3
3. That \$5,000 be paid to Whitewater Township to cover the expense of said hose.

The request for a Knox box will definitely be satisfied. As a matter of fact I would like to have a Knox box at our existing house if it is not too expensive. It is an understandable safety feature.

I have done considerable computer research on residential sprinkler systems. Nowhere in this research can I find information on draining the systems for the winter months when power is turned off and pipes are drained. I believe this would be a challenging endeavor for the summer resident who is building a second vacation home in a cold weather climate. Secondly, I question the possibility of this sprinkler system containing a fire in an all wooden structure until the fire department arrives.

In regards to #2 & #3 stipulation it concerns me that by the time a 1000' hose is threaded through the woods or down the road from a tanker truck on Skegemog Point Road there is little likelihood that an all wooden structure could be saved.

Perhaps a more likely solution for the fire department would be to put a pipe in Elk Lake with a dry hydrant on the shore of said property for a readily available water supply. This would not only benefit the new home owner, but would be usable for the 3 houses in the vicinity.

Of all the homes with long driveways that have been built on Skegemog Point Road in recent years not one has been required to provide these amenities or equipment for the fire department.

This is a definite hardship for us to satisfy. We need to sell this property for financial reasons and very much hope that the Zoning Board of Appeals will be able to grant the variance that we request so that any impending sale can be completed. We also respectfully request that should this variance not be approved at this meeting, it be turned over to you, Ms. Meyers, for considering an acceptable solution, and that in any event it **not be tabled until a later date.**

Thank you for your consideration.

Glory E. Wiltjer



125-013-00

Gary & Karen Plucinski Trust  
930 Skegemog Point Road  
Williamsburg, MI 49690

124-020-00

Regis & Patricia Mc Cord  
8162 Skegemog Point Road  
Williamsburg, MI 49690

123-024-00

John & Cheryl Kreger Trust  
8019 Skegemog Point Road  
Williamsburg, MI 49690

123-025-01

Mark & Maria Taylor

123-028-00

TTD LLC

124-018-10

Douglas & Marguerite Burkhead

124-018-00

Douglas & Marguerite Burkhead  
9481 Skegemog Point Road  
Williamsburg, MI 49690

124-019-00

Marguerite Burkhead TSTEE  
9481 Skegemog Point Road  
Williamsburg, MI 49690

123-024-10

Mark & Maria Taylor  
8057 Skegemog Point Road  
Williamsburg, MI 49690

123-025-00

Glory E Wiltjer Trust  
8109 Skegemog Point Road  
Williamsburg, MI 49690

123-027-00

TTD LLC

124-018-20

Barry & Lizabeth Riebow  
8116 Skegemog Point Road  
Williamsburg, MI 49690

126-001-00

Mary Anne Rivers Friese Trustee  
7943 Skegemog Point Road  
Williamsburg, MI 49690

123-025-02

Mark & Maria Taylor

123-028-10

TTD LLC  
C/O Fenner Melstrom & Dooling  
355 S old Woodward Ste 200  
Birmingham, MI 48009

124-018-20

Barry & Lizabeth Riebow  
8116 Skegemog Point Road  
Williamsburg, MI 49690

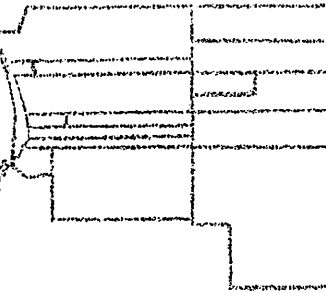
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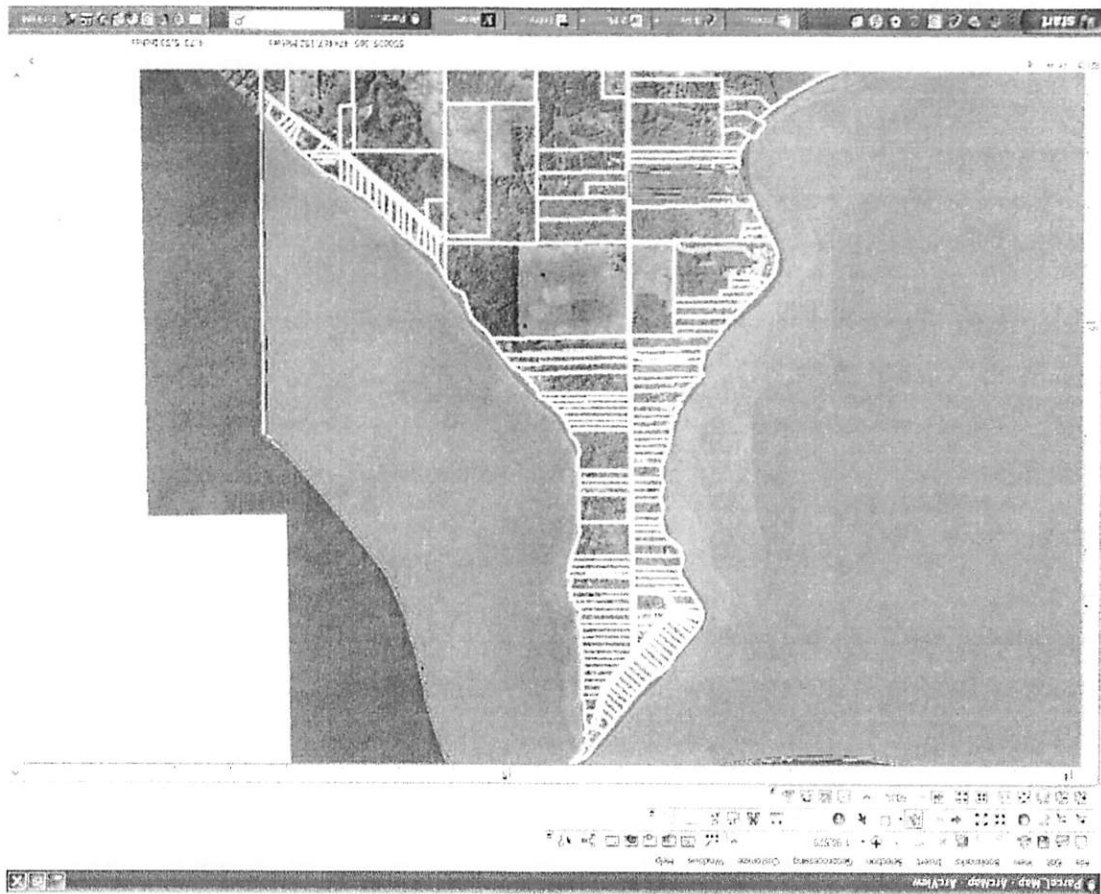
A4-10

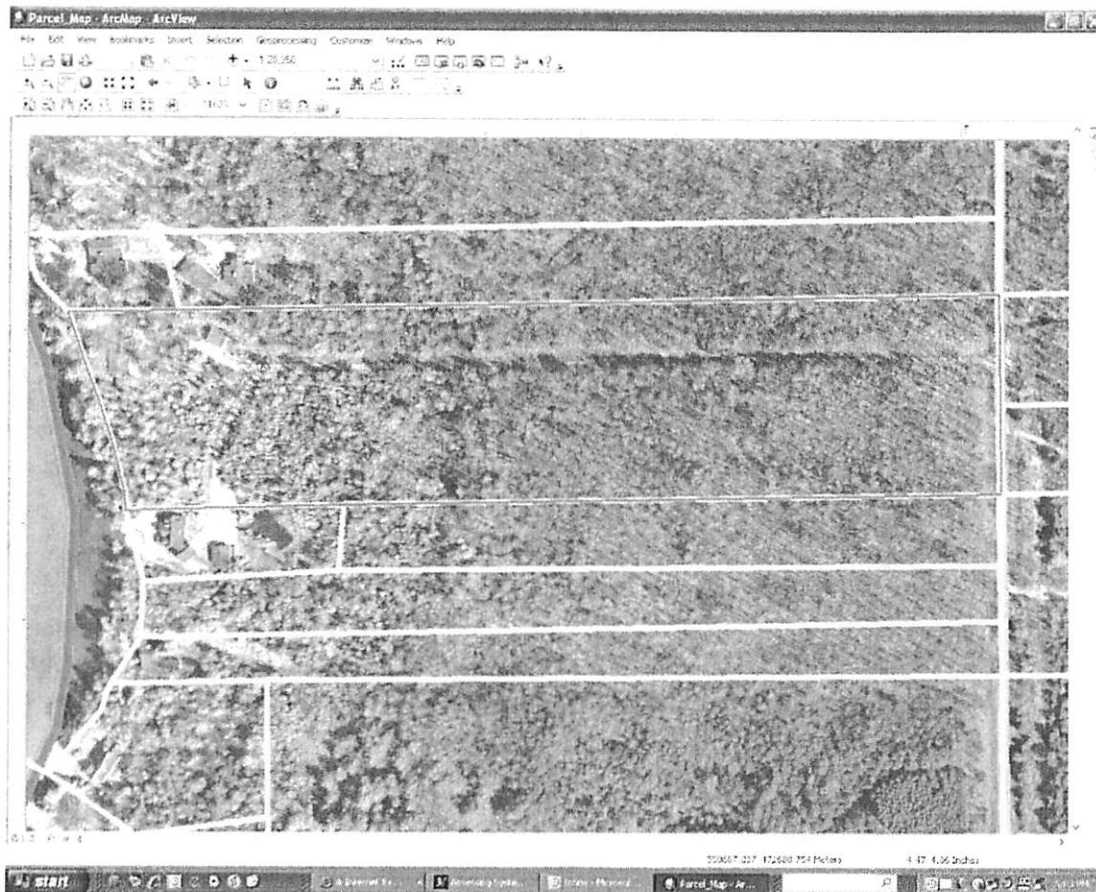
W, H, R

8109 Skegemog Pt Rd

123-025-00







### Subject Site – Aerial

Please note that the two properties directly south are under common ownership. The Driveway that is visible in the subject parcel provides access to the southerly parcels and would provide access to the newly proposed site also if the split is approved.



## GRAND TRAVERSE RURAL FIRE DEPARTMENT BATTALION # 3

*Randy Stites Battalion Chief*

8380 Old M<sup>72</sup> ~ Williamsburg, MI 49690

Phone: (231) 267-5969 Fax: (231) 267-5903 ~ Website: [www.gtfire.org](http://www.gtfire.org) Email: [info@gtfire.org](mailto:info@gtfire.org)

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8 November 2010

Ms. Leslie Meyers  
Whitewater Township  
Planning/Zoning Administrator  
5777 Vinton Road/PO Box 159  
Williamsburg MI 49690

Ref: 8109 Skegemog Point Road – Land Split Variance

Ms. Meyers;

Thanks for the copy of Mrs. Wiltjer's concerns and with this letter I will attempt to address those concerns. Unfortunately, I will be leaving town on business very early the next morning and a prior engagement scheduled for the night of the tenth, so I will be unable to attend your meeting.

First, let me address the cost of the Knox Box. The cost is \$235 and can be ordered online at [www.knoxbox.com](http://www.knoxbox.com). There are some different pages they would need to access to complete the order and I could assist them if required. Once the box is received and installed, I would need to be notified so I could install the door.

### Additional Concerns:

1. Home fire sprinklers can contain and may even extinguish a fire in less time than it would take the fire department to arrive on the scene. Likely they would also reduce the cost of homeowners insurance on a residence. However, if the house is not heated during the winter months, a suppression system may be rendered useless during that time period. Residential suppression systems run on an average of about 1.5% of the total cost of constructing a new residence.
2. In regards to the 5" hose concerns, due to the distance from the station and the distance/terrain to the exact location of the residential structures in that area being relative to the current improved road surface. In all aspects other than an installed suppression system, we may not be able to save a burning structure due to variables. One such variable would be access to these structures may be extremely difficult during the winter months if the access roads are not maintained. Normally we extinguish all structure fires as most insurance companies request that fires be extinguished for investigation purposes.
3. In reference to the "Dry Hydrant" concept, our experience has revealed that they are extremely difficult to access when located at private residences. We are unable to drive our trucks across a lawn to reach the shoreline without damaging the lawn and/or having our trucks get stuck. Also, we would need a minimum of 3' of water both above and below the 8" pipe to supply sufficient water for our pumps. While this may appear to be less expensive to install, history has taught us that over the year's costs for maintenance and repairs due to ice, reduced water levels and damage from boat motors will far exceed the cost of the hose and/or a suppression system.



# GRAND TRAVERSE RURAL FIRE DEPARTMENT BATTALION # 3

*Randy Stites Battalion Chief*

8380 Old M72 ~ Williamsburg, MI 49690

Phone: (231) 267-5969 Fax: (231) 267-5903 ~ Website: [www.gtfire.org](http://www.gtfire.org) Email: [Info@gtfire.org](mailto:Info@gtfire.org)

First  
Version

## SITE PLAN REVIEW RECORD

**PROJECT NAME:** 8109 Skegemog Pt Land Split -

**DATE:** 11/02/2010

**PROJECT ADDRESS:** 8109 Skegemog Pt.

**APPLICANT NAME:** Glory Wiltjer

**APPLICANT COMPANY:**

**APPLICANT ADDRESS:** 8109 Skegemog Point Road

**APPLICANT CITY:** Williamsburg

**STATE:** Michigan

**APPLICANT PHONE:** 267-5522

**FAX:**

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Reviewed by Randy Stites, GTRFD Batt #3 Chief

This review is based solely on the materials submitted for review and does not encompass any outstanding information. Compliance with all applicable code provisions is required and is the responsibility of the permit holder. Items not listed on the review do not negate any requirements of the code nor the compliance with same. Inspection request must be made a minimum of 48 hours prior to needed inspection. This plan is based on the 2009 International Fire Code, as amended.

Due to the extreme remoteness from an improved roadway, I recommend that any new dwelling constructed on this parcel or parcels that incorporate this parcel, be equipped with the following:

- Equipped with a residential suppression system designed and installed only for residential type structures according to NFPA 13R – 2010 Edition; OR
- 1000' of 5" supply hose and specific fittings will be required. The specifications for this hose and specific fittings will be dictated by the fire chief. The required hose and fittings will be delivered to GTRFD Battalion #3 fire station that is located in Williamsburg; OR
- A onetime payment of \$5000 can be forwarded to Whitewater Township to cover said expenses.

Further - All new homes shall be equipped with a Knox Box type key box which allows only the fire department access to your residence should a need arise. The contents of this Knox Box shall be all door key's, any alarm codes required to silence and/or reset any alarm present, contact information for the homeowner and a current floor plan of the structure. Contents are to be updated if changes within the residence are made.



# ATTACHMENT D

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
AGENDA FOR REGULAR MEETING

December 18, 2012

7:00 pm.

Whitewater Township Hall  
5777 Vinton Road, P.O. Box 159 Williamsburg, Michigan 49690  
Phone 231-267-5141/Fax 231-267-9020

Call to Order

Roll Call

Public Comment (For items not on the agenda)

Approval of Minutes of 11/20/12 Regular Meeting

7:01

Business Session

- 1) Public Hearing on Appeal #A12-006, Theodore and Patricia Styke and Tom Kellogg;  
13-310-012-00; 10153 Miami Beach Road, Williamsburg, MI 49690  
Open Public Hearing 7:05  
Zoning Administrator Presentation  
Petitioner Presentation  
Report on Site Visit  
Correspondence  
Public Speaking in Favor of Appeal  
Public Speaking in Opposition of Appeal  
Anyone in Attendance Who Wish to Speak on This Appeal  
Close Public Hearing 7:35  
Discussion on Appeal  
Findings of Fact  
Conclusion  
Reasons for Conclusion  
Decision  
Motion

Adjournment

① Motion to  
Dian Original  
Benak / Wons 4/0

② Motion approval  
Benak / Lake 4/0

7:51 pm

Miller absent  
Halstead is not present

- ⇒ Land division approval is the reason for this ZBA meeting
- ⇒ If we approve this split we are creating a legal non-conforming lot.
- There is practical difficulties carrying out the strict letter of the ordinance
- The Ordinance gives us the power to grant a variance from the ordinance.
- Allowing us to uphold the spirit of the Ordinance.
- Not contrary to all other existing parcels on the southside
- Does not impact the Health, Safety & Welfare
- We can if put conditions on this approval
  - Sold with lot 11
  - Only Garage - no home

DRAFT  
WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
MEETING MINUTES OF DECEMBER 18, 2012

Loyn/Lake  
510

Call to Order by Bowen at 7:01 p.m.

Roll Call: Benak, Bowen, Lake, Lyons, Recording Secretary-MacLean, acting Zoning Administrator-Popp and 2 in audience

Absent: Millar

Public Comment (For items not on the agenda) None

Approval of Minutes of 11/20/12 Regular Meeting. Motion to approve by Benak, seconded by Lyons; all in favor. Motion carried.

#### Business Session

Notices were sent out and posted in the newspaper.

- 1) Open Public Hearing at 7:05 on Appeal #A12-006, of applicant: Thomas Kellogg; property owner: Ted and Patricia Styke  
10153 Miami Beach Rd., parcel #28-13-310-012-00.

Zoning Administrator Presentation: Information from prior ZA: Notice posted in the Elk Rapids News and mailed to near properties. A request for a variance of Article 12.11, from the R-1 district 100'. Plus variance from General Ordinance #26 as the lot would exceed the 1:4 width to depth ratio. The proposed ratio is 1:6.2. Reading of the background of the property.

Recommend granting of the variance. Popp explanation: looking at the map, it is already non-conforming. Kellogg is looking to purchase the property from the Stykes. It does leave both properties as non-conforming. Explanation of the background of the property and reading of the department findings.

Petitioner Presentation: Don Fedrigon is representing both parties. Both parties realize that any building would have to come before the ZBA again.

Correspondence from the Stykes. Popp explained the non-conformity issue to them. They are aware and okay with it.

Report on site visit: Benak: it is pretty much the same as all of the rest of the Miami Beach area where all are putting their accessory structures on the south side of the road. We have done this two other times since I have been on the ZBA. Bowen: It is the same. Popp: Any comment on the drainage ditch on the south side of the road? There is standing water, right behind the garage. Bowen: It is evident there is not a lot of room there. Lake: There is a lot of wet land there.

Public Comment: In favor: none. In opposition: Popp: supposedly we had received two correspondence, but I did not receive any. A phone call from Robert Farrell, who did receive the meeting notice on lot #10, 10125 Miami Beach Rd., opposes because of water run-off. Once split new parcel will likely have a structure and driveway, this structure would cause more run-off and run across the road, the existing garage has no culvert in the ditch. Doesn't appear to be opposed to the split but he is concerned about any building. Benak: This is not about the building and a condition to put in a culvert can be imposed at the time if they should ever come back through for a building. Juanita Pierce called Supervisor Popp also, of 9747 Miami Beach, was not sent notification. Against the split because of water run-off. This causes the water to run away from the structure. She said one woman from the township and the drain commissioner has been out there and nothing has been done. Pierce has installed tile. Typically the water runs across the surface and does not seep into the ground. Popp: Appears that water run-off is a problem. Lake: This is about the land not the building.

Any Comment on this Appeal: None

Close Public Hearing: 7:31 p.m.

**Discussion:** Bowen: Referring to the findings: Benak: This does cause a burden. Bowen: Would they be able to build anything? No, there is already a structure there. Benak: It would not cause adverse affect as they are all doing that. Lake: Speculation of what could happen down the road is not what we are dealing with. Farrell and Pierce are "a couple" according to Mr. Fedrigo. Popp: We are looking at a land split only. Any construction would have to come before this board. Bowen: Decision must be based on the rules/laws we have in hand. I don't see it as any different than what is already in existence there. "Self created" is the only one I possibly have an issue on because it will happen only because of the sale. Any different ideas? Lyons: It will actually make it more consistent in the area. By splitting the lot in half it gives both lots 84', a non-conformity but not as dramatic as the original plan was to split the 168' at 57' and 110'. Both parties are aware that a new survey would need to be done. The 84' is different than the original request.

**Findings of Fact:** The lots will be used for accessory structures only. These lots will provide additional room for the two lake front non-conforming lots of record. Accessory structures are customary and common in this waterfront neighborhood. The non-conforming waterfront lots of record have limited ability to provide accessory storage. The variance will allow the applicants to enjoy customary and reasonable use of their property. All parcels on the south side of Miami Beach road exceed the 1:4 ratio. As all parcels south of Miami Beach Road exceed the required ratio, conformity will be unreasonably burdensome. Lots in the area range from 70' to 100' in width. The creation of two lots 84' in width for accessory purposes will not adversely impact the area. Only the north 70' – 100' of the lots are buildable due to regulated wetlands encompassing the majority of the parcels. Other split options would create one more non-conforming lot.

**Conclusion:** Do not grant the original request of splitting the 168' lot into a 57' and a 110' lot. Grant a variance that makes both parcels closer to conformity.

**Reasons for Conclusion:** Based on the findings of fact and health, safety and welfare are not in jeopardy.

**Decision:** Deny original request and grant as adjusted, the Stykes and Kelloggs are in agreement of the even split of the 168' lot. Parcel to be split in the center.

**Motion to deny original application by Benak, seconded by Lyons, all in favor.**

**Motion by Benak to grant a variance of 16' from the standard 100' width requirements of Article 12.11 and variance of width to depth ratio of 1:6.18 from the standard 1:4 ratio as stated in General Ordinance 26 section VIII with the stipulation that any land use must come forward to the ZBA for approval, based on the findings of fact, seconded by Lyons. Roll call: Benak – yes; Bowen – yes; Lake – yes; Lyons – yes;. All in favor. Motion carried.**

Popp: There is possibly another ZBA case coming for the Carpenter Trust, possibly in January.

Adjournment at 7:51 p.m.



Planning/Zoning Administrator Report  
Zoning Board of Appeals

Case No: A12-006

Applicant: Theodore & Patricia Style & Thomas Kellogg

Property Address: 10153 Miami Beach Road

Tax Id: 28-13-310-012-00

Zoning Classification: R-1, Residential

Hearing Date: December 18, 2012

Variance Request

Applicants request to split a portion of a legal description into two parcels. The request calls for two separate variances, one from Article 12.11 of the Zoning Ordinance to create a lot with 57.02' of frontage and the applicants are requesting a width variance to create a parcel that would be 57.02', a variance of 42.98'. Further, the lot would require a variance from General Ordinance #26 (Land Division) as the lot would exceed the 1:4 width to depth ratio. The proposed width to depth ratio proposed is 1:6.18.

Background Information

- The parcel was purchased by the present owners in 1993.
- At that time, the parcel was actually two parcels with two different tax identification numbers. Parcel 1 was described as Lot 12 of Clearwater Beach Subdivision. Parcel 2 was described as the East 168' of the West 809' of Government Lot 3.
- The parcels were combined into one tax identification number in order to construct the accessory building on the south side of Miami Beach Road.
- In 1997, the Land Division Act took away the ability to combine parcels that were separated by roads, were in two different plats, etc.
- Mr. Tom Kellogg, owner of Lot 11 would like to also construct an accessory building.
- Beginning in the late 1990's, the Township Board allowed for lot owners to "combine" small non-contiguous lots for the purposes of siting accessory structures. This was allowed with a recordable agreement that required the two parcels to be sold as a package only.
- The minimum lot width for a parcel created in the R-1 district is 100'.
- The Land Division Ordinance allows for parcels to have a 1:4 width to depth ratio. Variances can be granted if the parcels are consistent with the area or due to topographic and/or extraordinary circumstances.

**Zoning Department Findings:**

The applicants request is reasonable *with modifications*. Garages are a customary accessory use. The lots cannot be used for any other purpose other than accessory structures as Miami Beach Road is part of a Community Septic System that was designed for only a specific number of lots. With the exception of 9650 Miami Beach Road, no allowances were made for properties on the south side of the road.

The Zoning Administrator recommends granting a variance from Article 12.11 of the Zoning Ordinance *for two parcels to be created with a width of 84' each* (a variance of 16') as opposed to the requested 110.98' and 57.02' for case # A12-006 on parcel 28-13-310-012-00 based on the following findings of fact:

- Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of the Ordinance. **The lots will be used for accessory structures only. These lots will provide additional room for the two lake front non-conforming lots of record.**
- Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township. **Accessory Structures are customary and common in this waterfront neighborhood.**
- 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 non-conforming waterfront lots of record have limited ability to provide accessory storage.**
- 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 might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety or welfare. **The variance will allow the applicants to enjoy customary and reasonable use of their property.**

The Zoning Administrator recommends granting a variance from Ordinance #26, Section VIII to allow for a 1:6.18 width to depth ration based on the following conditions:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions: or that the greater ratio would be reasonably compatible with the surrounding lands. **All parcels on the south side of Miami Beach road exceed the 1:4 ratio.**
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance burdensome. **As all parcels south of Miami Beach Road exceed the required ratio, conformity will be unreasonably burdensome.**
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area. **Lots in the area range from 70' to 100' in width. The**



**creation of two lots 84' in width for accessory purposes will not adversely impact the area.**

- **Health, safety and welfare will not be compromised. Only the north 70' – 100' of the lots are buildable due to regulated wetlands encompassing the majority of the parcels.**
- **The requested variance is the minimum necessary to permit reasonable use of the land. Other split options would create one more non-conforming lot.**

**(Please find attached a copy of the Land Division Ordinance which you requested be modified to provide the fact finding for variance consideration in November 2010)**

# WHITTAKER TOWNSHIP



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

Case No. A-12-006

Date Rec. 11/20/12

Fee: \$250

pd 11/20/12  
check

## Property Information

Date Filed: 11/20/12 - SA?

Tax ID #: 13310-012-00 Subdivision: Clearwater Beach Lot #: 12+ pt. Gout 3 Zoning District: R1

Flood Plain: C Property Address: 10153 Miami Beach Year Property was Acquired: 1993

Size of Lot: Front 168' Rear: 168' Side 1: 629 Side 2: 605

Present Use of Property: Garage

Past Variances on Property in Question (Y/N)

If So State Case No. and Resolution of Appeal: Garage setback for home on lot 12

## Request Information

General Ord. #26 Land Division [X]

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

Description of Request: Applicants wish to split part of gout lot 3 to provide a lot for an accessory building for lot 11, Kellogg.

Width variance 42.98' + variance of 1.2.18 of width to depth.

Square Feet of Existing Structure to be demolished (if any): N/A

New Structure (Y/N) If So, Size of Proposed Structure (Square Feet):

New Addition to Existing Structure (Y/N) If So,

Size of Addition: Size of Existing Structure Size of Existing Structure + Addition:

Ordinance in Question (if any):

## Owner/Applicant Information

Owner Name: Ted + Patricia Styke

Mailing Address: 43501 Algonquin City: Novi State: MI Zip: 48375

Phone: ( ) - - Fax: ( ) - - E-Mail:

Applicant (if different from owner): Thomas Kellogg

Mailing Address: 1250 Byron City: Howell State: MI Zip: 48843

Phone: (517) 294-0954 Fax: (517) 578-0192 E-Mail:

294

SMI2MKRE5BCg606AL.NET

DATE 12/13/12

TO: Whitewater Township Zoning Board Of Appeals

From: Theodore & Patricia Styke  
10153 Miami Beach Rd  
Williamsburg MI 49690

Attn: Todd Millar

RE: Variance

I Theodore Styke & Patricia Styke will not be able to attend the hearing on Dec 18, 2012  
We understand the terms and conditions of the division of property Tax ID#13-310-012-00.

Any question contact Theodore Styke @ C-248.212.8403 W-313.535.9390

Sincerely,

Theodore Styke  
Patricia Styke

**Leslie Meyers**

---

**From:** Patty Styke <pattystyke@hotmail.com>  
**Sent:** Wednesday, November 21, 2012 9:42 AM  
**To:** Leslie Meyers  
**Subject:** lot change request (tom Kellogge)

Good Morning Leslie, I Ted Styke give Tom Kellogge permission to pursue request for lot change.

Any questions please contact me @ work 313-535-9390 or cell 248-212-8403

Thanks Ted Styke

**NOTICE OF PUBLIC HEARING – REGULAR MEETING**  
**Whitewater Township Zoning Board of Appeals**

The Whitewater Township Zoning Board of Appeals will conduct a public hearing on December 18, 2012 at 7:00 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, MI.

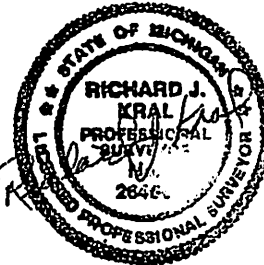
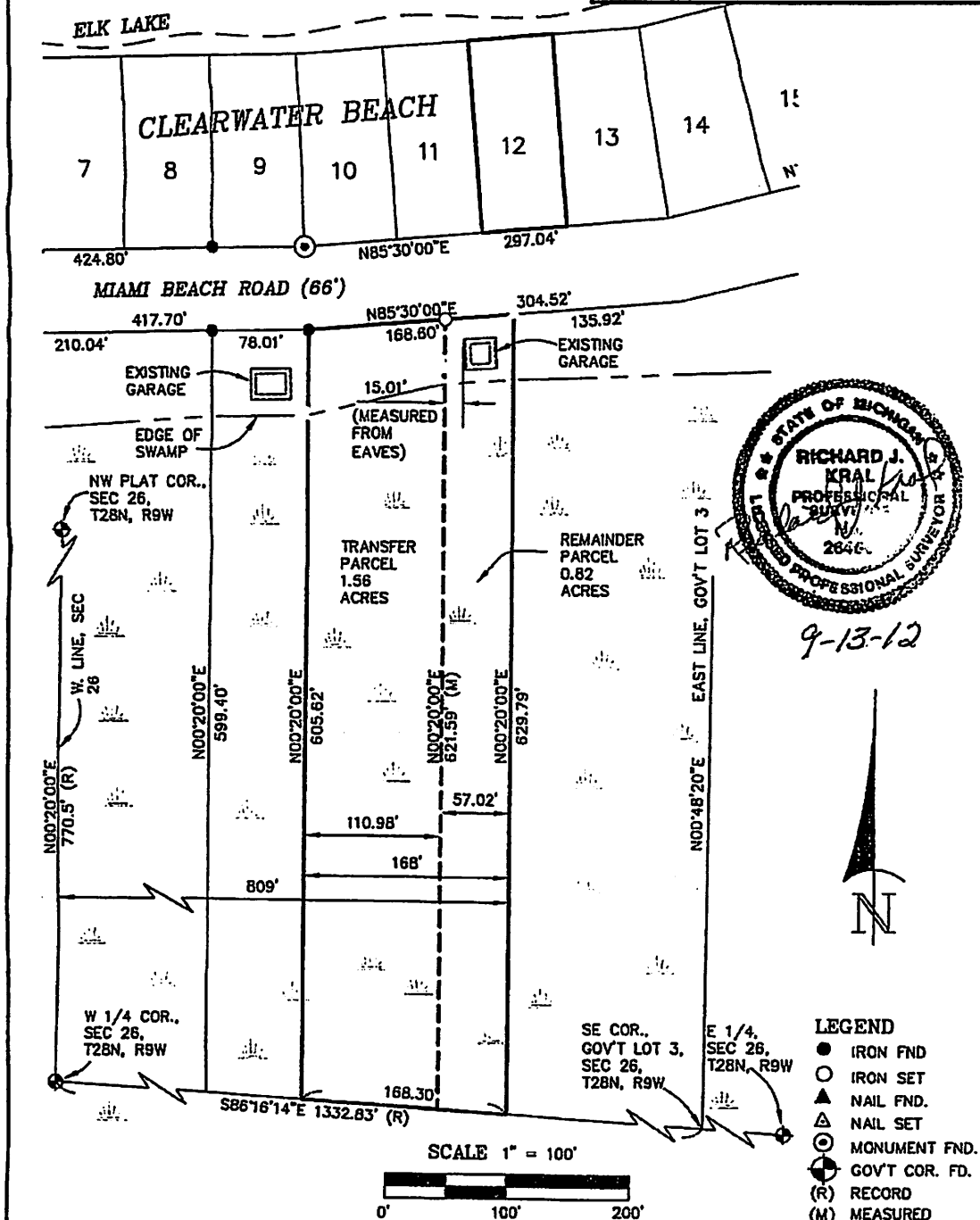
The applicants, Theodore & Patricia Styke, 10153 Miami Beach Road, Williamsburg, MI 49690 (Tax ID #28-13-310-012-00), together with Thomas Kellogg, 10139 Miami Beach Road, Williamsburg, MI 49690, are requesting a variance from Article 12 of the Whitewater Township Zoning Ordinance – Schedule of Regulations and General Ordinance #26 Land Division. Specifically, the applicants are requesting a width variance to create a parcel that would be 57.02', a variance of 42.98'. Further, the lot would require a variance from General Ordinance 26 as the lot would exceed the 1:4 width to depth ratio. The proposed width to depth ratio proposed is 1:6.18.

All persons are welcome and will be heard concerning the request. A copy of the application and the Township Zoning Ordinance and Zoning Map are available for public viewing and/or purchase at the Township Hall, 5777 Vinton Road, Williamsburg MI 49690, during regular office hours. Written comments will be received until the time of the meeting and should be addressed to Todd Millar, Chairman, Whitewater Township Zoning Board of Appeals (ZBA), PO Box 159, Williamsburg, MI 49690.

Whitewater Township will provide necessary reasonable auxiliary aid and services to individuals with disabilities and who plan on attending. Contact the Township Clerk at (231) 267-5141 or call (231) 922-4760 (TDD 946-4412) as soon as possible.

November 29, 2012 1T

# CERTIFICATE OF SURVEY



9-13-12



- LEGEND**
- IRON FND
  - IRON SET
  - ▲ NAIL FND.
  - △ NAIL SET
  - ⊙ MONUMENT FND.
  - ⊕ GOV'T COR. FD.
  - (R) RECORD
  - (M) MEASURED

I hereby state, that I have surveyed and mapped the herein described parcel(s), that the ratio of closure of the unadjusted field observations is within the accepted limits and that I have fully complied with the requirements of P.A. 132 of 1970, as amended.

DRN: ekh  
CHK: RJK  
09/12/12

CLIENT: TED STYKE

BEARING: PLAT OF CLEARWATER BEACH,  
BASIS: LIBER 6 OF PLATS, PAGE 44

12-0079

**LEADING**  
**EDGE**  
**SURVEYING, LLC**

6164 GNAFRED SHORES DR., SW  
FIFE LAKE, MI 49633  
PHONE: (231) 342-5012 OR  
(231) 342-9892

PART OF GOV'T LOT 3  
SECTION 26, T28N, R9W  
WHITEWATER TOWNSHIP  
GRAND TRAVERSE COUNTY, MICHIGAN

SHEET  
1  
OF 2

# ATTACHMENT E



WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
AGENDA FOR REGULAR MEETING, February 19, 2013  
7:00 pm., at the Whitewater Township Hall  
5777 Vinton Road, P.O. Box 159 Williamsburg, Michigan 49690  
Phone 231-267-5141/Fax 231-267-9020

Call to Order

7:02

Roll Call

Public Comment (for items not on the agenda)

Approval of Minutes of 12/18/2012 Regular Meeting

*[Handwritten initials]*

Business Session:

- 1) Public Hearing on Appeal #A-13-001, Kathleen Carpenter, Charitable Trust, 28-13-123-006-00 Taxes Pd for 2012
- 2) Open Public Hearing
- 3) Zoning Administrator Presentation
- 4) Petitioner Presentation
- 5) Report on Site Visit
- 6) Correspondence
- 7) Public Speaking in Favor of Appeal
- 8) Public Speaking in Opposition of Appeal
- 9) Anyone in Attendance Who Wish to Speak on This Appeal
- 10) Close Public Hearing on Appeal #A-13-001
- 11) Discussion on Appeal
- 12) Findings of Fact
- 13) Conclusion
- 14) Reasons for Conclusion
- 15) Decision
- 16) Motion

7:05

7:16

Halstead/Lake 5/0 Granted

Selection of Members:

Chairperson: Benak/Lyons Accepted Ken Bower  
Vice-Chairperson: Lake/Benak accepted vice chair Kim H  
Secretary: Ken B/Lyons accepted Lake

5/0 on ally

DRAFT  
WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
MEETING MINUTES OF FEBRUARY 19, 2013

Call to Order by Bowen at 7:01 p.m.

Roll Call: Benak, Bowen, Lake, Lyons, Halstead, Recording Secretary-MacLean, acting Zoning Administrator-Popp and 3 in audience.

Public Comment (For items not on the agenda) None

Approval of Minutes of 12/18/12 Regular Meeting. Motion to approve by Lyons, seconded by Lake; all in favor. Motion carried.

Business Session

Notices were sent out and posted in the newspaper.

- 1) Open Public Hearing at 7:05 on Appeal #A13-001, of applicant: Kathleen Carpenter Charitable Trust, Skegemog Pt. Rd., parcel #28-13-123-006-00.

Zoning Administrator Presentation: Popp: Notice posted in the Elk Rapids News and mailed to near properties. A request for a variance of Article 12.11 Zoning Ordinance, a variance of 14.93' from the 1:4 Ratio minimum width/maximum depth. Originally the proposed parcel had started out as two. Carpenter purchased the two lots prior to 1992. At some point the lots were combined. A notation from the card file indicates the combination of the two lots. The owner had no knowledge combining. **Owner would like to split the two parcels. Recommends granting the variance.** Not contrary to public interest or the intent of the ordinance. Low water levels have created the issue. Other parcels have the same dimensions. There has been only one comment. That person is in favor of the split. Something we have seen fairly regularly along Skegemog Pt. Rd. Applicant has gotten a site survey with GT County.

Petitioner Presentation: Don Fedrigo is representing the Trust. Mrs. Carpenter says it was just combined – no knowledge or no request to do it.

Correspondence : One in favor from 8920 Skegemog Pt. Rd.

Report on site visit: Lake: I can see where they should have it the way they want. That is the way it is out there. Bowen: It is very close to compliance.

Public Comment:

In favor: None

In opposition: None

Any Comment on this Appeal: None

Close Public Hearing: 7:16 p.m.

Discussion: Bowen: It is very close to the standard and when you look at Section 7, this appeal falls into that and is reasonably comparable.

Halstead: I agree. She did not ask for the combination and she should be granted the split.

Bowen: We have seen this a lot in the past.

Benak: Smaller is usually the issue, this is larger and it is the water level that has created the problem. It appears to meet every one of the variance rules as to why we should grant it.

Findings of Fact: Owner never requested the combination of the two lots. A variance of the 1:4 ratio is common along Skegemog Point Rd. Not self created – the low water level has created the problem.

Conclusion: Grant the request.

Reasons for Conclusion: Based on the findings of fact and health, safety and welfare are not in jeopardy.

Decision:

**Motion by Lake to grant a variance of 14.93' from 1:4 width to depth ratio, a ratio of 1:4.04 & 1:4.02 from Article 12.11. based on the findings of fact, seconded by Halstead. Roll call: Benak – yes; Bowen – yes; Lake – yes; Lyons – yes; Halstead - yes. All in favor. Motion carried.**

**Selection of Members:**

**Chairperson:** Motion by Benak to appoint Bowen as Chair: seconded by Lyons. All in favor.

**Vice-chair:** Motion by Lyons to appoint Halstead Vice Chair, seconded by Benak. All in favor.

**Secretary:** Motion for Lake to be Secretary, seconded by Lyons.

**Roll call to approve positions:** Lake – No (because he does not want to be secretary ☺); Lyons – yes; Benak – yes; Bowen – yes; Halstead – yes. Motion carried.

**Annual Review of ZBA By-laws:** Lake would prefer it to go back to the 4<sup>th</sup> Thursday as it is already stated in the By-laws. Motion by Halstead to change regular meeting date back to the 4<sup>th</sup> Thursday, seconded by Lake, all in favor. Motion carried.

**Set the 2013 – 2014 meeting dates:**

April 25, 2013

May 23

June 27

July 25

August 22

September 26

October 24

November 21

December 19

January 23, 2014

February 27

March 27

**Use the current agenda layout**

**Add "Declaration of Conflict of Interest" to the agenda after Roll-Call.**

**Include Set/Adjust Agenda**

**Include reports from the ZA, Board Rep. and the PC Rep. after the Motion on the Public Hearing.**

**Motion to make the revisions to the Agenda layout by Halstead, seconded by Lyons. All in favor.**

**Motion carried.**

**Popp will make the changes and send it to the Board for approval.**

**Review of case number A-12-006 and submitted sketches for future submittal to ZBA.**

**Consensus of the board:** The land division was approved. The ZBA is motivated by application and none has been submitted for a building. The ZBA cannot do a "pre-approval". No submittal, no decision.

**Adjournment at 7:59 p.m.**

Respectfully Submitted by Recording Secretary MacLean

ZBA 2/19/2013

Page 2 of 2

**Discussion:**

**Annual Review of ZBA Bylaws**

**Motion to Adopt/Reword and Forward to the Full Township Board for adoption.**

**Kellogg Garage:**

**Review Case Number A-12-006 and submitted garage sketches for future submittal to ZBA**

**Adjournment:**

**Time: \_\_\_\_\_**

# Memo

**To:** Whitewater Township Zoning Board of Appeals

**From:** Ron Popp

**CC:**

**Date:** 1/24/2013

**Re: February 19, 2013 Meeting**

---

ZBA Members,

Hello Members, hope this memo finds all of you well and *warm*.

**- NEWS FLASH -**

Date line January 22, 2013 - Mr. Kim D. Halstead was approved by the Whitewater Township Board as your newest full time member! Welcome Mr. Halstead!

We have a busy agenda for our February 19, 2013 meeting so I wanted to get this out early.

First we have the carpenter width/depth ratio issue. I do realize the proposed land divisions on this case are JUST outside of the schedule of regulations parameters and may seem trivial, however if it fits it ships, if not, off to the ZBA we go!

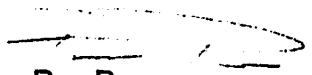
Next we should select officers in accordance with the Board By Laws. We will need three folks to fill the Chair, Vice-Chair, and Secretary posts. A brief description of each of these posts is contained in the By Laws for your review.

Moving on, annual review of the Board By Laws. I have included a copy of page 51 and 52 of the MTA's Clerk's Guide to Township Government. Our Clerk, Cheryl Walton brought these pages to my attention and they offer good reading, especially about the ZBA member disqualification. Please take a minute to read this material to see if there is a section of the By Laws that needs updating.

Lastly, at the December 18, 2012 meeting of this board it was decided to grant a width/depth ratio variance to Theodore & Patricia Styke and Thomas Kellogg (a copy is attached). After reviewing your decision and realizing he has to come back in front of this board before building his garage. Mr. Kellogg is wondering if the land split approved by this board will allow him to construct a building to meet his needs. (A sketch of what he wants to build is attached). In summary, if he cannot fit this proposed building on the land mass because of front yard/rear yard setbacks he doesn't want to finalize the split. Mr. Kellogg is asking for a good faith response from you before committing to the split, purchase, storm water runoff, and plan submittal process for his next trip to this board.

How can we accommodate his request?

Thank you (until your better paid),



Ron Popp  
Interim Zoning Administrator  
Whitewater Township – USA  
231-409-5059 – (personal cell for your use when needed)

**Whitewater Township  
Zoning Administrator Report  
Zoning Board of Appeals**

**Case No: A-13-001**

**Applicant: Kathleen Carpenter Charitable Trust**

**Property Address: Skegemog Point Road – Vacant Land**

**Tax Id: 28-13-123-006-00 (2012 Taxes pd.)**

**Zoning Classification: R-1, Residential**

**Hearing Date: February 19, 2012**

**Variance Request**

Applicants request a variance from Article 12.11 Schedule of Regulations of the Whitewater Township Zoning Ordinance and more specifically the 1 to 4 Minimum Width/Maximum Depth Ratio provision. The proposed land division would create lot #1 with a 1 to 4.04 average width to depth ratio and lot #2 with a 1 to 4.02 average width to depth ratio, a variance of .04 feet and .02 feet respectfully.

**Background Information**

- Parcel 28-13-123-006-00 was purchased by the applicant in approximately 1981 on a land contract recorded in Liber 0528 Page 0471 resulting in a Quit Claim Deed in 1987 recorded in Liber 0701 Page 0993.
- Parcel 28-13-123-013-00 was purchased by the applicant in approximately 1990 with the Warranty Deed recorded in Liber 0827 Page 0133.
- Parcel 28-13-123-013-00 was combined into Parcel 28-13-123-006-00 in 1992, for unknown reasons.

**Zoning Department Findings:**

The applicant states combination of the two parcels was completed without their knowledge and or permission.

The Zoning Administrator recommends granting a variance from Article 12.11 of the Whitewater Township Zoning Ordinance allowing for the creation of two lots exceeding the 1 to 4 width to depth ratio for case # A-13-001 on parcel 28-13-123-006-00 based on the following findings of fact:



- Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of the Ordinance. **The parcels were originally separate and complied with the 1 to 4 ratio as evidenced by their original legal descriptions. Erosion or in this case collection of eroded material along the lake shore has increased the length of the North South bisecting cord causing the issue.**
- Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township. **Other parcels in the area have similar dimensions.**
- 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 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 might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety or welfare. **The variance will allow the applicant the development rights that were hers in the 1990 s prior to the erosion/buildup at the lakefront.**
- Attached is a copy of the Land Division Ordinance as amended February, 2011

*Question concerning  
ordinary high water mark*

# WHITEWATER TOWNSHIP



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

Case No. A-13-201

Date Rec. 1/21/2013

Fee: \$250

## Property Information

Date Filed: 1/14/13

Tax ID #: 28-13-123-006-00 Subdivision: MEETS & BOUNDS Lot #: N/A Zoning District: R-1

Flood Plain: N/A Property Address: SKELMING POINT ROAD Year Property was Acquired: 1979

Size of Lot: Front 200 Rear: 203 Side 1: 398 Side 2: 397

Present Use of Property: RESIDENTIAL Past Variances on Property in Question (Y (N))

If So State Case No. and Resolution of Appeal: \_\_\_\_\_

## Request Information

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

Description of Request: DIVISION: TO RETURN PROPERTY TO STATUS PRIOR TO ERIC JOHNSON  
COMBINING THESE TWO INDEPENDANT TAX PARCELS

Square Feet of Existing Structure to be demolished (if any): N/A

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

New Addition to Existing Structure (Y (N)) If So,

Size of Addition: \_\_\_\_\_ Size of Existing Structure \_\_\_\_\_ Size of Existing Structure + Addition: \_\_\_\_\_

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

## Owner/Applicant Information

Owner Name: CARPENTER, KATHLEEN CHARITABLE TRUST

Mailing Address: P.O. Box 1350 City: TRAVERSE CITY State: MI. Zip: 49686

Phone: ( ) - - Fax: ( ) - - E-Mail: \_\_\_\_\_

Applicant (if different from owner): DONALD FEDRIGON JR.

Mailing Address: P.O. Box 36 City: ELK RAPIDS State: MI. Zip: 49629

Phone: ( 231 ) 264 - 5400 Fax: ( 231 ) 264 - 5600 E-Mail: DON@REMAXOFELKRAPIDS

NOTICE OF PUBLIC HEARING – REGULAR MEETING  
Whitewater Township Zoning Board of Appeals

The Whitewater Township Zoning Board of Appeals will conduct a public hearing on February 19, 2013 at 7:00 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, MI.

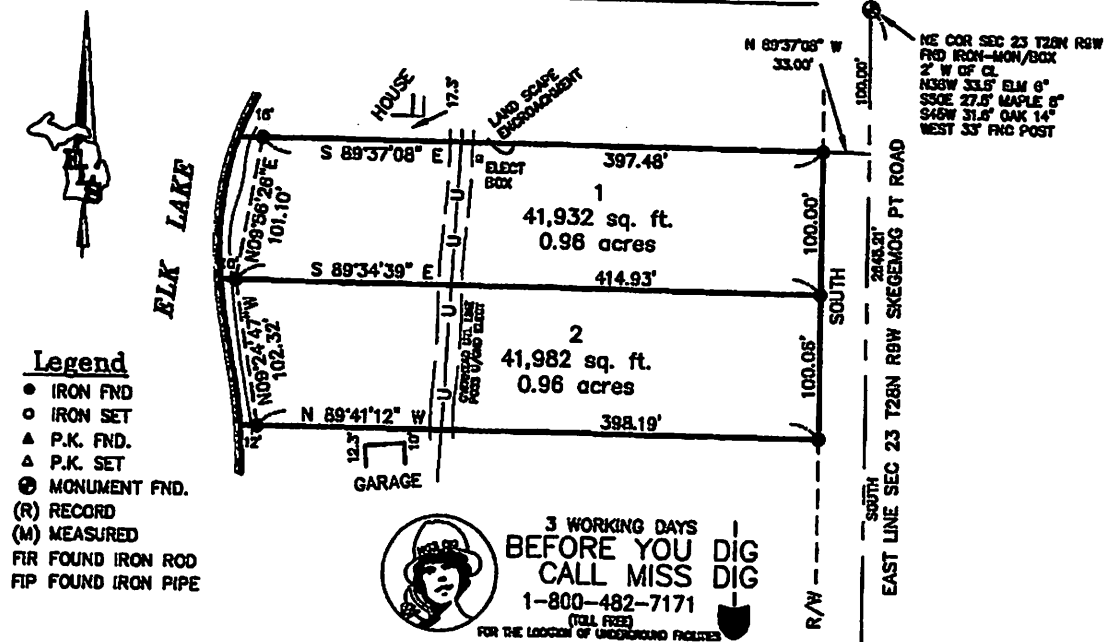
The applicant, Kathleen Carpenter Charitable Trust, P.O. Box 1350 Traverse City, Michigan 49686 (Tax ID #28-13-123-006-00) is requesting a variance from Article 12 of the Whitewater Township Zoning Ordinance – Schedule of Regulations. Specifically the applicants are requesting a 14.93' variance from the 1 to 4 Minimum Width / Maximum Depth Ratio regulating lot shape.

All persons are welcome and will be heard concerning the request. A copy of the application and the Township Zoning Ordinance and Zoning Map are available for public viewing and/or purchase at the Township Hall, 5777 Vinton Road, Williamsburg MI 49690, during regular office hours. Written comments will be received until the time of the meeting and should be addressed to Todd Millar, Chairman, Whitewater Township Zoning Board of Appeals (ZBA), PO Box 159, Williamsburg, MI 49690.

Whitewater Township will provide necessary reasonable auxiliary aid and services to individuals with disabilities and who plan on attending. Contact the Township Clerk at (231) 267-5141 or call (TDD 800-649-3777) as soon as possible.

February 1, 2013 1T

# Certificate of Survey



**DESCRIPTION PARCEL 1:**  
A parcel of land situated in Whitewater Township, Grand Traverse County, Michigan, and more fully described as follows:  
That part of Government Lot 1 of the Northeast 1/4 of Section 23, Town 28 North, Range 9 West, described as:  
Commencing at the Northeast corner of said Section 23; thence South along the East line of said Section 100.00 feet; thence North 89°37'08" West 33.00 feet to a point on the Westerly right-of-way Skagemog point Road for the point of beginning; thence South along said right-of-way 100.00 feet; thence North 89°34'39" West 414.93 feet to a point on a traverse line along the shore of Elk Lake; thence North 09°28'28" East along said traverse 101.10 feet; thence South 89°37'08" East 397.48 feet to the point of beginning; and containing 0.96 acres of land. Said parcel extends to the waters edge of Elk Lake. Subject to easements, right-of-ways, reservations and restrictions of record.

**DESCRIPTION PARCEL 2:**  
A parcel of land situated in Whitewater Township, Grand Traverse County, Michigan, and more fully described as follows:  
That part of Government Lot 1 of the Northeast 1/4 of Section 23, Town 28 North, Range 9 West, described as:  
Commencing at the Northeast corner of said Section 23; thence South along the East line of said Section 100.00 feet; thence North 89°37'08" West 33.00 feet to a point on the Westerly right-of-way Skagemog point Road; thence South along said right-of-way 100.00 feet to the point of beginning; thence South along said right-of-way 100.08 feet; thence North 89°41'12" West 398.19 feet to a point on a traverse line along the shore of Elk Lake; thence North 09°24'47" West along said traverse 102.32 feet; thence South 89°34'39" East 414.93 feet to the point of beginning; and containing 0.96 acres of land. Said parcel extends to the waters edge of Elk Lake. Subject to easements, right-of-ways, reservations and restrictions of record.

*Neil L. Way*  
NEIL L. WAY  
Licensed Surveyor Number: 28432

I, NEIL L. WAY, a Licensed Professional Surveyor in the State of Michigan, do hereby certify that I have surveyed and mapped the hereon described parcel(s) of land; that the ratio of closure of the unadjusted field observations is within the accepted limits; and that I have fully complied with the requirements of P.A. 132 of 1970, as amended.

Ratio of Closure: 1/10,000  
Basis of Bearing: Eagle 98-2088

<b>EAGLE LAND SURVEYING, Inc.</b> (231) 264-9110 FAX: 264-9311 eaglelandsurvey@aol.com 7164 EAGLE'S WAY LANE KEWADIN, MI 49648 FB/PQ: N.A.	For: <b>RE/MAX ELK RAPIDS</b>	
	Part of Gov't. Lot 1, Sec. 23, T28N, R9W, Whitewater Twp., Grand Traverse Co., Michigan.	
	Date: Dec. 14, 2012	File No.: 2012-175
	Drafted By: NLW	Sheet 1 of 1

Drawn File: 2012-175.dwg

# ATTACHMENT F

**WHITEWATER TOWNSHIP**  
**ZONING BOARD OF APPEALS**  
**WRITTEN DECISION OF ZONING BOARD OF APPEALS**

**Application Number:** \_\_\_\_\_

**Hearing Date:** August 24, 2023

**Applicant:** Baggs Partners, LLC (“Applicant”).

**Site Address:** 6631 Baggs Road, Williamsburg, MI 49690. Parcel No. 13-136-001-02 (the “Parcel”).

**Purpose of Request:** Request a variance from the 4:1 depth to width ratio requirement of the Whitewater Township Ordinance No. 26 (The “Land Division Ordinance”).

In 2020, the Township received and approved an application for a land division which created the Parcel. The parent parcel was a 125-acre parcel owned by Morrison Orchards, which was split to create the Parcel, which is approximately 30 acres in size. On February 2, 2022, the Parcel was sold to Baggs Partners, LLC. On May 3, 2023, the Township Board found that the Parcel is not compliant with the Land Division Ordinance and deemed the parcel ineligible for building permits or zoning approvals. Applicant seeks a variance from the 4:1 depth to width ratio requirements.

**Public Hearing:** The ZBA opened the public hearing on August 24, 2023, to consider the subject matter of the Application for appeal. The ZBA heard comments from the Applicant, its representative, the Township attorney, and members of the public, along with exhibits submitted by the same.

**Standards of Review:** The Whitewater Township Land Division Ordinance provides the standards for review by the Zoning Board of Appeals, and in particular the following sections:

Section VII(D), provides that the ZBA “may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.”

Section VIII, provides that where “there are practical difficulties” the ZBA may “vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee [here, the ZBA], may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values, or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land. [Ordinance, Section VIII]

**Findings of Fact:** The ZBA finds as follows based upon the Land Division Ordinance, the Application, information and comments received by the Applicant, its representative and the Township attorney, and based on input (both through comments and written submissions) received during the public hearing.

1. By majority vote on June 20, 2023 the Township Board directed the ZBA to accept all relevant information and hear the application for a Land Division Ordinance variance for the Parcel.
2. Pursuant to the Land Division Ordinance, Section VII and Section VIII, and the action of the Township Board, the ZBA has been delegated and does have the authority to hear the request for a variance.
3. Applicant is the owner of 6631 Baggs Road, Williamsburg, MI 49690, the subject of this appeal. The Parcel is vacant, with no structures on the property.
4. Previous owner Morrison Acres applied for the land division of a 125-acre parent parcel in 2020.
5. In 2020, the Zoning Administrator approved the application for a land division, and the division created the Parcel at issue, which is approximately 30 acres in size.
6. On or about May 18, 2020, the Parcel was sold to former owner Debono.
7. On or about January 14, 2022, the Parcel was sold to Derek Van Solkema.
8. On or about February 2, 2022, the Parcel was quit-claimed to Baggs Partners, LLC.
9. On August 29, 2022, the Township received a complaint alleging that the Parcel was improperly split because it did not conform with the 4:1 width to depth ratio under Section VII of the Land Division Ordinance.



10. At a special meeting of the Township Board on May 3, 2023, the Township Board made a number of findings, including that the Parcel is noncompliant with the Land Division Ordinance, specifically the ratio requirement. The Township Board further found that the Parcel is “not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.”
11. This Application followed, requesting a variance of the ratio requirement.

**Whether the Applicant has shown:**

12. That exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions

*or*

that the greater ratio would be reasonably compatible with the surrounding lands, the ZBA specifically finds:

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13. Whether the Applicant has shown that strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property

*or*

will render conformity with the regulation of the Land Division Ordinance unreasonably burdensome, the ZBA specifically finds:

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14. Whether the Applicant has shown that the requested variance will not cause an adverse impact on the  
development of surrounding property,

property values *or*

the use and enjoyment of property in the immediate area, the ZBA specifically finds:

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15. Whether the Applicant has shown that the health, safety and welfare will not be compromised, the ZBA specifically finds:

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16. Whether the Applicant has shown that the requested variance is the minimum variance necessary to permit reasonable use of the land, the ZBA specifically finds:

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**Decision:**

For the reasons above and stated on the record, the ZBA    GRANTS    /    DENIES    the Application for a depth-to-width variance.

ADOPTED:

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

\_\_\_\_\_  
Kenneth Bowen, ZBA Chair

Dated: \_\_\_\_\_, 2023

### **CERTIFICATION**

I, Therowin Lake, the duly qualified and acting Secretary of the Whitewater Township Zoning Board of Appeals, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Whitewater Zoning Board of Appeals at a duly scheduled meeting of the Zoning Board of Appeals held on \_\_\_\_\_, 2023

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Therowin Lake, Secretary