

## **WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**

### **Agenda for Regular Meeting, April 25, 2019**

**7:00 p.m. at the Whitewater Township Hall**

**5777 Vinton Road, Williamsburg, MI 49690**

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

1. Call to Order/Pledge of Allegiance
2. Roll Call
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest
5. Re-approval of Minutes of January 24, 2019  
Approval of Minutes of March 28, 2019
6. Scheduled Public Hearing: Appeal #19-003 Bruce and Jennifer Brown, 8955 Skegemog Point Road, Williamsburg, MI 49690, are requesting a dimensional variance. Parcel is in the R-1 Zoning District. Parcel #28-13-123-006-02.
  - a. Open Public Hearing on Appeal #19-003
  - b. Zoning Administrator Presentation
  - c. Petitioner Presentation
  - d. Report on Site Visit
  - e. Correspondence
  - f. Public Speaking in Favor of Appeal
  - g. Public Speaking in Opposition of Appeal
  - h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented
  - i. Close Public Hearing
  - j. Discussion of Appeal
  - k. Findings of Fact
  - l. Conclusion
  - m. Reasons for Conclusion
  - n. Decision
  - o. Motion
7. Scheduled Public Hearing: Appeal #19-004 Suzanne Conant, 8032 Lakeside Trail, Williamsburg, MI 49690, are requesting a dimensional variance. Parcel is in the R-1 Zoning District. Parcel # 28-13-430-003-00.
  - a. Open Public Hearing on Appeal #19-004
  - b. Zoning Administrator Presentation
  - c. Petitioner Presentation
  - d. Report on Site Visit
  - e. Correspondence
  - f. Public Speaking in Favor of Appeal
  - g. Public Speaking in Opposition of Appeal
  - h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented
  - i. Close Public Hearing

- j. Discussion of Appeal
  - k. Findings of Fact
  - l. Conclusion
  - m. Reasons for Conclusion
  - n. Decision
  - o. Motion
- 8. Other Matters to be Reviewed by the Zoning Board of Appeals
    - a. Correspondence Received
  - 9. Report of Planning Commission Representative
  - 10. Report of Township Board Representative
  - 11. Report of Zoning Administrator
  - 12. Adjournment

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
REGULAR MEETING OF January 24, 2019  
5777 Vinton Road, Williamsburg, Michigan

Call to order by Chair at 7:08 p.m.

Roll Call: Bowen, Halstead, Hooper, Shaffer

Absent: Benak, Lake, Alternate Garza

Also in attendance: Recording Secretary MacLean

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None

Approval of Minutes:

Motion to approve meeting minutes of November 29, 2018, as adjusted by Hooper, second by Bowen. On voice vote, all in favor. Motion carried.

Scheduled Public Hearing:

- A. Public Hearing on Appeal #19-001. Pat and Lori Lannen, 10101 Miami Beach Rd., Williamsburg, MI 49690, is requesting a dimensional variance. Parcel #28-13-310-008-00 is in the R-1 (Residential) Zoning District.
  - a. Open Public Hearing on Appeal #19-001 at 7:12 p.m. for Pat and Lori Lannen, parcel #28-13-310-008-00 at 10101 Miami Beach Rd, Williamsburg, Michigan. Requesting a dimensional variance of Article XII, Section 12.11 – Schedule of Regulations – R-1, Minimum Side-yard setback and minimum rear-yard setback. Requesting a side-yard setback variance of 8’3” on the east side and a 28’6” variance rear-yard (road side) setback from the required 15’ side-yard setback and 30’ rear-yard setback for construction of a garage to be attached to exiting home.
  - b. Zoning Administrator Presentation: The legal notice of public hearing was posted in the Record Eagle January 6, 2019. Notices were also sent out to eleven property owners within 300 ft. of the property. Summary of staff report: Ten variances have been granted on Miami Beach road for various setbacks. Water run-off has been a concern. Noticed while driving through the area, and even though it is not a busy road, there is a sign indicating it is a deaf child area. Need to grant a variance with the least amount of encroachment into the setbacks.
  - c. Petitioner Presentation: Pat Lannen: Thank you for your time and attention. It is a standard two car garage plus storage. Regarding the safety issue of a deaf child. There is no deaf child in the area. There is 25’ from the garage to the road. Water run-off will be completed as the house is with rock. Trying to be mindful of the plan and layout of the house and land. Many people in the area have been granted variances. Moving the addition further in from the side yard setback would cover the entrance and possibly a window.
  - d. Report on Site visits: Halstead: The shed will be moved to be within the set back or removed.  
Bowen: The garage is going to be very close to the road.  
Hooper: There is one similar on it is about 25’ from the garage to the road as this one would be.  
Hooper: It is a 66’ road right of way.
  - e. Correspondence: Haggard Plumbing and Heating has no problem with granting the variance. One neighbor verbally indicated support of the variance.

- f. Public speaking in favor of appeal None.
- g. Public speaking in opposition of appeal: None.
- h. Anyone wishing to speak on the appeal None.
- i. Close Public Hearing on Appeal #19-001 at 7:37 p.m.
- j. Discussion of appeal: Hooper: Do not think it is a problem with the rear yard setback. It is still quite a bit off the road. Do have a problem with the side yard setback. It can be moved over.  
Bowen: Wrestling with this being self-created since they are the ones who built the house.  
Hooper: We have done the rear yard setback. We have not this on the side yard setback. Covering the door may not be optimum but it is do-able and would help with how much of a variance is needed.  
Bowen: One of the questions we must address is: "Is it the minimum that is needed?".  
Halstead: It could be moved over, over the door.  
Shaffer: Concerned with the side yard setback for safety in getting medical or fire equipment through.  
Bowen: There are work arounds to not having to go through the garage to get into the house if it were moved.  
Shaffer: You can see where there is a need.  
Hooper: Our responsibility is to grant the minimum necessary.
- k. Findings of Fact:

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

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

Observing the spirit of the Ordinance means that the Zoning Board of Appeals understands the potential effects one or several variances could have on the effectiveness of the Ordinance. The fundamental purpose is to promote the health, safety, and general welfare of the inhabitants of the Township.

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

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

Single family dwellings are a permitted use within the R-1 Zoning District. These dwellings can include an attached garage or detached.

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

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

The promotion of health, safety, and general welfare of the inhabitants of the Township is accomplished through: Securing safety from fire and other dangers and providing for safety in traffic, adequacy of parking and reduction in hazards to life and property (Article II Section 2.10(2)). It would be appropriate for the applicant to demonstrate how they will safely exit the proposed garage. The measurement from the eave is 1'6" away from the rear property line, which is located along Miami Beach Road (a private road). There are several other structures in close vicinity– from my best aerial measurement they appear to be at least 5'-6' from the property line/ROW.

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

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

Meeting this standard requires the requested variance be related to the characteristics of the property and not to the personal situation of the applicant.

As stated earlier, the request for this variance is based upon **practical difficulty** due to unique conditions and circumstances of the land, which must be determined by the Zoning Board of Appeals. The applicant states, "The house was built in 2003 without a garage. Because of the high water table there is no basement or crawl space for storage. The garage cannot be built to the west of the current cement driveway because of the underground 2 stage septic tank with electric pump and drain pipes to the community system. The new natural gas line is also on the west side of the lot. Moving the garage to the west side would also cover the entrance into the house." In this case practical difficulty may be identified as a high water table.

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

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

Property owners are given certain rights to use their property within the limits allowed by the Ordinance. There are several others who have been granted a variance to construct an attachment or accessory building within the permitted setbacks in this neighborhood. It is also important to note that each variance granted on a case by case basis –because one variance is granted does not mean that another be granted in the same district. The current appeal must be explored to ensure that it will not adversely impact properties in the vicinity (refer to standard 3).

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

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

Section 18.08 (B) states: No more than the minimum variance from the terms of the Ordinance shall be granted which is necessary to relieve the practical difficulty or necessary hardship.

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

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## 7. The practical difficulty is not self-created.

The lot is part of a platted subdivision: Lot 8 Clearwater Beach Subdivision. This platted subdivision was created on September 19, 1960. The lot was purchased by the applicant in 1999. Due to the 50' setback from the water and the size of the lot (Lot Dimensions: 70' x 150' (10,500 ft<sup>2</sup>) approximately 0.241 acres of land) there is not a large building envelope.

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

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

It is also important to note: Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within one (1) year after granting of the variance. An extension, not to exceed one year may be granted upon request of the applicant (Section 18.80(C)).

Based on the seven questions.

As a group we seem to be in consensus that we have done similar variances in the area.

- l. Conclusion: Grant a variance to approve the request for the rear yard setback. Not approve the side yard setback variance. There is sufficient space for the garage without encroaching on the side yard setback. You can conform without a variance.  
Zoning Administrator Wolf notes that the fire chief indicates the emergency vehicles require a minimum of 10'.
- m. Reasons for Conclusion: Rear yard setback is similar to other variances and garage settings in the area. Side yard setback is very close.
- n. Based on the findings of fact as presented.
- o. Decision: Grant rear yard setback. Not grant the side yard setback.
- p. Motion by Hooper, second by Bowen to grant the request for a rear yard setback variance of 28'6" and to not grant the requested side yard setback on the ZBA Appeal #19-001.  
Roll call vote: Bowen-Yes; Halstead-Yes; Hooper-Yes; Benak-NA; Shaffer-Yes; Lake-NA; Garza-NA.  
Motion carried.

### Other Matters to be Reviewed by the Zoning Board of Appeals:

- 1. Correspondence Received - None
- 2. Election of 2019 Officers:

Hooper recommends that we keep the officers the same, second by Halstead. Bowen accepts to continue as Chair. Halstead accepts to continue as Vice Chair. Lake is not present but he can deny at the

next meeting.

Roll Call vote: Bowen-Yes; Halstead-Yes; Lake-NA; Hooper-Yes; Benak-NA; Shaffer-Yes; Garza-NA.

All in favor. Motion carried.

3. Annual review of ZBA By-laws. No changes.

Motion by Halstead, second by Shaffer to keep the by-laws the same. All in favor. Motion carried.

4. Resolution ZBA19-01, Fiscal year 2019/2020 Regular Meeting Dates.

Motion by Bowen, second by Hooper to adopt the 2019/2020 meeting Resolution ZBA 19-01.

Roll call vote: Lake-NA; Hooper-Yes; Benak-NA; Shaffer-Yes; Garza-NA; Bowen-Yes; Halstead-Yes.

All in favor. Motion carried.

Planning Commission Representative report: Hooper: Recodification moving forward. We have been asked about Event Barns. We feel a need to address the issue of event barns because someone, at some time, is going to want one and we just want to be ready. They help to maintain large tracts of land. Each PC member is doing a short bio for the April Newsletter. Maybe the ZBA will be asked to do that also.

Township Board Representative report: Benak: NA

Zoning Administrator report: Working on getting a survey together regarding event barns. We are just looking for feed-back at this point. Master Plan is due for a review in the next year. Putting out a monthly e-newsletter.

Decision form and Resolution signed by all present members.

Next regularly scheduled meeting will be February 28, 2019, if it is necessary.

Adjourned at 8:35 p.m.

Respectfully submitted by  
Recording Secretary  
Lois MacLean

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
REGULAR MEETING March 28, 2019  
5777 Vinton Road, Williamsburg, Michigan

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

Roll Call: Benak, Bowen, Halstead, Lake, Alternate Shaffer, Alternate Garza

Absent: Hooper

Also in attendance: Recording Secretary MacLean

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None

Approval of Minutes:

Motion to approve meeting minutes of January 24, 2019, by Benak, second by Bowen. On voice vote, all in favor.  
Motion carried.

Scheduled Public Hearing:

- A. Public Hearing on Appeal #19-002. Robert & Christine Jurs (on behalf of Catherine Alfred) are requesting a use variance for 8212 Okaiyoka Road, Williamsburg, Michigan. Parcel #28-13-122-015-00. Parcel is in the R-1 Zoning District.
  - a. Open Public Hearing on Appeal #19-002 at 7:07 p.m. for Robert & Christine Jurs (on behalf of Catherine Alfred), parcel #28-13-122-015-00 at 8212 Okaiyoka Road, Williamsburg, Michigan. Requesting a use variance of The Jurs are requesting **a variance to construct a 160 sq.ft. addition to a nonconforming structure** in the Residential R-1 Zoning District.
  - b. Zoning Administrator Presentation: The legal notice of public hearing was posted in the Record Eagle March 10, 2019. Notices were also sent out to eleven property owners within 300 ft. of the property. Summary of staff report: There are multiple livable units on one lot in the R-1 District. This would be an addition to a cottage built in 1962. They would expand the unit by 160 sq. ft. to add a small kitchen and bathroom. The unit would be built to current ADA code. These are family units, not rented to the public.  
This is a request to grant variance to Article 6, section 6.10 Uses Permitted in the Residential R-1 District.  
Other applicable zoning ordinance sections:  
Article IV, section 4.15 Extension of Nonconforming Use or Structure  
Article III Definitions  
Article XV Sanitation Requirements, Section 15.10 County Health Ordinance  
The addition would bring the building further into compliance by increasing the size by 160 sq. ft. A land division is not a solution as it would create a parcel that exceeds the width to depth ratio.
  - c. Petitioner Presentation: Robert & Christine Jurs of 20816 Beaconsfield Blvd., Rocky River, Ohio, on behalf of property owner, Catherine Alfred 3765-2 Lander Rd., Chargin Falls, Ohio: Was notified by a previous zoning administrator that the septic and well would need to be upgraded before anything could be done. That has been completed.  
They are on their fifth generation of family coming up here. These cabins are never rented out.
  - d. Report on Site visits: Bowen: Gorgeous property.  
Lake: One small tree will have to come out. Looks like a nice place for an addition.



Benak: Secluded and very nice.

Jurs: Looking to possibly use helical piers for the base which doesn't require as much disruption of the property and environment. Roofs have been completed in the last couple years. Leaving as much of the original building as possible.

- e. Correspondence: Haggard Plumbing and Heating has no problem with granting the variance. Correspondence in favor of the variance by several neighbors: Coggeshall of 8126 Okaiyoka Rd., Wishart of 8234 Okaiyoka Rd., Adams of Okaiyoka Rd., Levine of Okaiyoka Rd., Graves of Okaiyoka Rd. Verbal correspondence was just wondering if the association had reviewed the plan – neither for or against.
- f. Public speaking in favor of appeal None.
- g. Public speaking in opposition of appeal: None.
- h. Anyone wishing to speak on the appeal None.
- i. Close Public Hearing on Appeal #19-002 at 7:30 p.m.
- j. Discussion of appeal: We would normally like nonconformities go away, however these cottages were built long before there were zoning ordinances. They are actually bringing it closer to compliance. The septic and well upgrades are a plus.  
The owner of the property will no longer be able to use the property without the upgrades.  
Looks like they have used good judgment in the work they have already done.
- k. Findings of Fact:

Use Variance. The Zoning Board of Appeals may grant a use variance only upon finding that an **unnecessary hardship** exists. A use variance is a variance that permits a use that is otherwise prohibited in a zoning district.

**To obtain a use variance a finding of an unnecessary hardship shall require demonstration by the applicant of the following:**

- 1. The property cannot be reasonably used for any purpose permitted in the zoning district without the variance.**

The nonconforming use on the property is a use that was legal at the time it was created but which has since become impermissible because of subsequent modification of adoption of the zoning ordinance in 1972. The applicant states the variance would allow relatives of all ages to utilize the property.

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

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- 2. The need for the variance is due to unique circumstances particular to the property and not generally applicable in the area or to others properties in the same zoning district.**

The applicant states the property was purchased in 1932, along with 8 colleagues. There have been several additions (3 cabins, pole barn, clay tennis court) that have taken place over the years that are particular to this property before current zoning came into effect.

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

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**3. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.**

As stated, the property was purchased in 1932, along with 8 colleagues. There have been several additions (3 cabins, pole barn, clay tennis court) that have taken place over the years. There is no sanitary waste disposal (bathroom) in the unit requesting to be altered. The property card contains a quit-claim deed to Catherine Alfred (current property owner) on January 7<sup>th</sup>, 1975. Sanitation requirements in the current ordinance did not come into effect until July 28, 2017.

Article XV Sanitation Requirements, Section 15.10 County Health Ordinance

**Compliance shall be had in all land uses and in all structures erected, altered,** or moved upon a premise with all provisions of the County Health Ordinance in force in the Grand Traverse County entitled "Sanitary Code of Minimum Standards Regulating Sewage Disposal, Water Supplies, and Sanitation of Habitable Buildings in Grand Traverse County Michigan" as the same may be amended from time to time, and violation of any provision of that Ordinance shall constitute a violation of this Ordinance. Granting the requested variance would bring the property/structures into compliance with Grand Traverse County Health Codes/this Ordinance; as well as ADA building code(s) for aging owner.

**To be determined by the Zoning Board of Appeals. YES \_xxxxx\_ NO \_\_\_\_**

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**4. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type of pattern of land uses in the area and the natural characteristic of the site and surrounding area will be considered.**

This indicates that if approved, the variance will not depreciate the neighborhood- it also applies to others who might be affected by the variance, such as neighboring property owners. It is appropriate for the Zoning Board of Appeals to take the comments from the public into consideration to determine whether or not the variance may adversely affect nearby properties, zoning district, or the Township. As Zoning Administrator, it is my belief that the removal of the porta-potty will enhance the neighborhood, and prevent a possible nuisance per say that could result in the odor from the raw sewage. If the porta-potty were to leak it would have negative impacts on the environment/water quality (Section 2.10(6) purpose of Ordinance to protect water quality).

**To be determined by the Zoning Board of Appeals. YES \_xxxxx\_ NO \_\_\_\_**

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Determining the answers to the four (4) review standards should give us a well-supported foundation in regards to approving or denying the requested variance.

Based on the four questions.

As a group we seem to be in consensus that the use variance would be appropriate for this property, for this building.

Can we grant them the use variance for up to 700 sq. ft.? That way the minimum sq. ft. requirement would be met making it one less thing that is out of compliance. Could grant with a minimum of 160 sq. ft. addition up 512 sq. ft. addition to bring it into full compliance on two of the three noncompliances..

I. Conclusion: Grant the variance .

- m. Reasons for Conclusion: .
- n. Based on the findings of fact as presented.
- o. Decision: .
- p. Motion by Bowen, second by Benak to grant the request for a use variance to construct an addition of a minimum of 160 sq.ft. up to an additional 532 sq. ft. to an existing nonconforming structure on the ZBA Appeal #19-002.  
Roll call vote: Halstead-Yes; Hooper-NA; Benak-Yes; Shaffer-Yes; Lake-Yes; Garza-Yes. Motion carried.

Other Matters to be Reviewed by the Zoning Board of Appeals:

- 1. Correspondence Received - None

Planning Commission Representative report: Hooper: NA.

Township Board Representative report: Benak: Have been very busy with the budget.

Supervisor Popp has been off on sick leave for a month.

Event Barn survey has been completed and will go out with the spring newsletter.

Working on an update to the Whitewater Township Park. Ideas to upgrade the boat launch, parking, drives, beach, playground, etc. It will be done in phases. The Park is self-funded and we will be applying for grants. The plan is that no general funds will be used.

The Planning Commission will be given laptop computers to address any possible FOIA issues that could arise.

Clean up day is set for June 8 at the school.

The Fire Department has put out a bid for a new pumper tanker. The money has been saved for this.

Bios and head shots for the spring newsletter.

Zoning Administrator report: There will be a ZBA meeting in April.

Updating forms and applications in the zoning department.

Researching the 5 acre minimum.

Meeting people as they come in.

Basic office cleaning.

Working to get our files digitized.

Recodification is still being worked on via the PC and the Board.

Decision form and Resolution signed by all present members.

Next regularly scheduled meeting will be April 25, 2019, if it is necessary.

Adjourned at 8:16 p.m.

Respectfully submitted by  
Recording Secretary  
Lois MacLean

T. C. RECORD-EAGLE, INC.  
120 WEST FRONT STREET  
TRAVERSE CITY MI 49684  
(231)946-2000  
Fax (231)946-8273

ORDER CONFIRMATION

Salesperson: DENISE LINGERFELT Printed at 04/01/19 10:35 by dling  
-----  
Acct #: 2055 Ad #: 516043 Status: New WHOLD  
  
WHITEWATER TOWNSHIP CLERK Start: 04/07/2019 Stop: 04/07/2019  
CHERYL GOSS Times Ord: 1 Times Run: \*\*\*  
P.O. BOX 159 STDAD 3.00 X 2.90 Words: 200  
WILLIAMSBURG MI 49690 Total STDAD 8.70  
Class: 147 LEGALS  
Rate: LEGAL Cost: 86.20  
# Affidavits: 1  
  
Contact: Ad Descrpt: LEGAL NOTICE WHITEWATER T  
Phone: (231)267-5141 Given by: EMAIL CHERYL GOSS  
Fax#: P.O. #:  
Email: clerk@whitewatertownship.org Created: dling 04/01/19 10:31  
Agency: Last Changed: dling 04/01/19 10:35  
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PUB ZONE EDT TP START INS STOP SMTWTFS  
RE A 97 W Sun 04/07/19 1 Sun 04/07/19 SMTWTFS  
IN AIN 97 W Sun 04/07/19 1 Sun 04/07/19 SMTWTFS  
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Please be sure to check your ad on the first day it appears. Although we are happy to make corrections at any time, the Record-Eagle is only responsible for the first day's incorrect insertions. Also, we reserve the right to edit or reclassify your ad to better serve buyers and sellers.

No refunds or rebates will be issued if you cancel your ad prior to the stop date.

We appreciate your business.

(CONTINUED ON NEXT PAGE)

T. C. RECORD-EAGLE, INC.  
120 WEST FRONT STREET  
TRAVERSE CITY MI 49684  
(231)946-2000  
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT

Printed at 04/01/19 10:35 by dling

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Acct #: 2055

Ad #: 516043

Status: New WHOLD WHOI

**LEGAL NOTICE  
WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
NOTICE OF PUBLIC HEARING**

Please be advised that on APRIL 25, 2019 the Whitewater Township ZONING BOARD OF APPEALS will conduct a public hearing at a regular meeting 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 applicants Bruce & Jennifer Brown are requesting a variance to construct a pole barn within the 15' side yard setback. The proposed pole barn would be 5' from the southern side lot line. The property is located at 8955 Skegemog Point Road Williamsburg, MI 49690. Parcel ID #28-13-123-006-02. Case #A19-003.

All persons are welcome and will be heard concerning the request. A copy of the application and zoning ordinance are available for viewing at the township hall. Written comments will be received until April 25, 2019 and should be addressed to the Whitewater Township Zoning Department, PO BOX 159, Williamsburg, MI 49690. Whitewater Township will provide necessary reasonable auxiliary aid and services to individuals with disabilities who plan on attending. Contact the Township Clerk at (231)267-5141 ext. 24 as soon as possible or the TDD at 800-649-3777.

April 7, 2019-1T

516043

February 13, 2019

Please see the following documents for a request for a setback variance at 8955 Skegemog Point Rd for the purpose of building a barn. Please let me know what further is needed from us to proceed with this request.

Thank you,

Jennie Brown

248-760-7424

8955 Skegemog Point Rd (full time resident)



# WHITEWATER TOWNSHIP



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

Case No. A-19-003

Date Rec. 2 / 13 / 19

Fee: \$250

pd. check  
#1427

## Property Information

Date Filed: 2 / 12 / 19

Tax ID #: 28-13-123-006-02 Subdivision: N/A Lot #: N/A Zoning District: R1 Residential

Flood Plain: \_\_\_\_\_ Property Address: 8955 Skegemog Point Rd Year Property was Acquired: 2013

Size of Lot: Front 100 Rear: 102 Side 1: 398 Side 2: 414

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: Reduce required setback from side property boundary from 15' to 5' to build a pole barn.

Our lot received a substantial hit from the August 2015 storm and lost dozens of mature trees. This setback variance would allow us to keep ~8 trees that are ~50-75 + feet tall. We have discussed with the neighbor affected and they did not have any objections.

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

New Structure ☒ (Y) ☐ (N) If So, Size of Proposed Structure (Square Feet): ~1240 sq ft

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: Bruce and Jennifer Brown

Mailing Address: 8955 Skegemog Point Rd City: Williamsburg State: MI Zip: 49690

Phone: ( 248 ) 760 - 7424 Fax: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: jennie.b@outlook.com

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

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

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

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A2 - Dryflies
A3 - Larva Larva Pier
A4 - Fly Larva Pier A5 - Stonefly A6 - Stonefly A7 - Stonefly A8 - Stonefly A9 - Stonefly A10 - Stonefly A11 - Stonefly A12 - Stonefly A13 - Stonefly A14 - Stonefly A15 - Stonefly A16 - Stonefly A17 - Stonefly A18 - Stonefly A19 - Stonefly A20 - Stonefly A21 - Stonefly A22 - Stonefly A23 - Stonefly A24 - Stonefly A25 - Stonefly A26 - Stonefly A27 - Stonefly A28 - Stonefly A29 - Stonefly A30 - Stonefly A31 - Stonefly A32 - Stonefly A33 - Stonefly A34 - Stonefly A35 - Stonefly A36 - Stonefly A37 - Stonefly A38 - Stonefly A39 - Stonefly A40 - Stonefly A41 - Stonefly A42 - Stonefly A43 - Stonefly A44 - Stonefly A45 - Stonefly A46 - Stonefly A47 - Stonefly A48 - Stonefly A49 - Stonefly A50 - Stonefly A51 - Stonefly A52 - Stonefly A53 - Stonefly A54 - Stonefly A55 - Stonefly A56 - Stonefly A57 - Stonefly A58 - Stonefly A59 - Stonefly A60 - Stonefly A61 - Stonefly A62 - Stonefly A63 - Stonefly A64 - Stonefly A65 - Stonefly A66 - Stonefly A67 - Stonefly A68 - Stonefly A69 - Stonefly A70 - Stonefly A71 - Stonefly A72 - Stonefly A73 - Stonefly A74 - Stonefly A75 - Stonefly A76 - Stonefly A77 - Stonefly A78 - Stonefly A79 - Stonefly A80 - Stonefly A81 - Stonefly A82 - Stonefly A83 - Stonefly A84 - Stonefly A85 - Stonefly A86 - Stonefly A87 - Stonefly A88 - Stonefly A89 - Stonefly A90 - Stonefly A91 - Stonefly A92 - Stonefly A93 - Stonefly A94 - Stonefly A95 - Stonefly A96 - Stonefly A97 - Stonefly A98 - Stonefly A99 - Stonefly A100 - Stonefly



## 8955 Skegemog Point Rd Variance request

Trees that could  
be saved



Most of the space  
where the barn would  
go is open (due to tree  
loss). Including land  
adjacent to neighbors.



**WHITEWATER TOWNSHIP PLANNING & ZONING DEPARTMENT STAFF REPORT**  
**April 25, 2019**

**Request for Variance: Appeal #19-003**

On 2/12/2019, a request for a dimensional variance was received from Bruce and Jennifer Brown 8955 Skegemog Point Road, Williamsburg, MI 49690. The Browns are requesting a variance to construct a detached garage within the 15' side setback in the Residential R-1 Zoning District. **The proposed garage would be 5' from the southern, side lot line (10' variance)**. A public hearing notice was published in the Record Eagle on April 7, 2019, and put on the Township website. A total of twenty one (21) 300' foot mailers were mailed on April 10, 2019.

The request for variance is based upon **practical difficulty** due to unique conditions and circumstances of the land, which must be determined by the Zoning Board of Appeals. The applicant states, "Our lot received a substantial hit from the August 2015 storm and lost dozens of mature trees. This setback variance would allow us to keep ~8 trees that are ~50-75 + feet tall."

**Applicable Zoning Ordinance Section**

If the Board of Appeals decides to grant the variance they would be granting a variance to Article XII, Section 12.11 – Schedule of Regulations – R-1 Minimum Side-yard setback.

**Section 12.11 Schedule of Regulations for R-1 District**

- Minimum Lot Width: One Hundred (100) Feet
- Minimum Lot Area: Twenty Thousand (20,000) FT<sup>2</sup>
- Front Yard Setback: Fifty (50) Feet from Water's Edge
- Side Yard Setback: Fifteen (15) Feet
- Rear Yard Setback: Thirty (30) Feet
- Maximum Structure Height: Thirty Five (35) Feet
- Depth Ratio: 1:4

**Notes to Section 12.11**

1. No structure shall be built within the minimum yards required except when expressly allowed elsewhere in this Ordinance.

**Property Description**

Tax ID #: 28-13-123-006-02

Lot Dimensions: 100' x 417' (estimate), approximately 1.454 acres of land

**Legal Description**

PARCEL 2: PART OF GOVT LOT 1 OF NE 1/4 SEC 23 T28N R9W COM AT NE CNR SEC 23 TH S 100' TH N 89 DEG 37'08" W 33' TH S 100' TO POB TH S 100.06' TH N 89 DEG 41'12" W 398.19' TO A POINT ON TRAVERSE LINE ALONG SHORE OF ELK LAKE TH N 09 DEG 24'47" W 102.32' TH S 89 DEG 34'39" E 414.93' TO POB SPLIT/COMBINED ON 01/29/2013 FROM 13-123-006-00;





### **Section 18.70 Application of Variance Power**

A variance grants permission to depart from a requirement or limitation of the zoning ordinance. There are two types of variances:

1. Use Variance
2. Non-Use Variance

In this specific case, we are dealing with a **Non-Use (Dimensional) Variance request**.

Non-Use Variance. The Zoning Board of Appeals may grant a non-use variance only upon finding that **practical difficulty** exists. A non-use variance is variance from any standard or requirement of the Ordinance, such as, but not limited to, a deviation from density, bulk, setback, parking landscaping and sign standard requirements.

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

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

Observing the spirit of the Ordinance means that the Zoning Board of Appeals understands the potential effects one or several variances could have on the effectiveness of the Ordinance. The fundamental purpose is to promote the health, safety, and general welfare of the inhabitants of the Township.

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

---

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

Accessory structures are a permitted use within the R-1 Residential Zoning District when the structure is located on the same lot or a lot contiguous to the primary building. There is a primary building on this lot.

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

---

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

This indicates that if approved, the variance will not create an unsafe condition - it also applies to others who might be affected by the variance, such as neighboring property owners. It is appropriate for the Zoning Board of Appeals to take the comments from the public into consideration to determine whether or not the variance may adversely affect nearby properties, zoning district, or the Township. A letter of support and also a letter that did not support the request were received.

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

---

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



Meeting this standard requires the requested variance be related to the characteristics of the property and not to the personal situation of the applicant.

As stated earlier, the request for a variance is based upon **practical difficulty** due to unique conditions and circumstances of the land, which must be determined by the Zoning Board of Appeals. The applicant states, "Our lot received a substantial hit from the August 2015 storm and lost dozens of mature trees. This setback variance would allow us to keep ~8 trees that are ~50-75 + feet tall." The location of the septic/drain field is shown on the plan. In this case the practical difficulty may be identified as tree loss due to the storm of 2015.

Would the removal of the trees have a negative impact on the property? I do not believe the removal of the trees would impact soil erosion due to the distance from the water. This could be viewed as the variance being requested due to the personal preference of the applicant.



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

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

Property owners are given certain rights to use their property within the limits allowed by the Ordinance. Have there been any other variances granted in this area? It is also important to note that each variance granted on a case by case basis –because one variance is granted does not mean that another be granted in the same district. There are other properties in the area that have additional accessory structures. Due to the tree coverage this structure would be more visible from the road.

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

---

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

Section 18.08 (B) states: No more than the minimum variance from the terms of the Ordinance shall be granted which is necessary to relieve the practical difficulty or necessary hardship. The size of the proposed structure on the application states 1,240 sq. ft – the site plan shows a 26' x 56' (1,456 sq. ft) structure – what is the correct size? What is this going to be used for/could it be made smaller to fit the building envelope/for a lesser variance?

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

---

**7. The practical difficulty is not self-created.**

The applicant states, "Our lot received a substantial hit from the August 2015 storm and lost dozens of mature trees. This setback variance would allow us to keep ~8 trees that are ~50-75 + feet tall."

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

---

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

It is also important to note: Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within one (1) year after granting of the variance. An extension, not to exceed one year may be granted upon request of the applicant (Section 18.80(C)) .

The applicant has no infractions that would impair the granting of the variance.

Respectfully Submitted,  
*Lindsey Wolf*

Lindsey Wolf, Zoning Administrator  
Whitewater Township  
[zoning@whitewatertownship.org](mailto:zoning@whitewatertownship.org)  
(231)267-5141 Ext. 21

*Haggard's*  
**PLUMBING and HEATING**  
"Business of Quality and Service"  
"Charlevoix-the-Beautiful"  
haggardsinc@hotmail.com

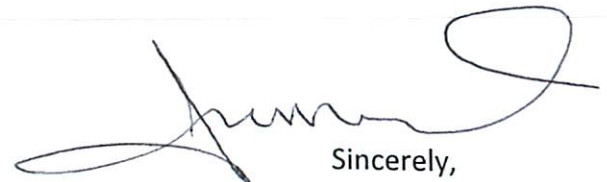
Date: March 25th, 2019

To: Whitewater Township Zoning Department  
P.O. Box 159  
Williamsburg, MI 4969

RE: Applicant Bruce & Jennifer Brown request for a variance to construct a pole barn on their property. Location 8955 Skegemog Point Rd. Williamsburg, MI 49690 Parcel#28-13-123-006-02 Case#A19-003

To Whom it May Concern,

Upon reviewing the above Notice, I would like to express my view with the above case's requests. Haggard's Plumbing & Heating is opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we could like to see their request granted. It would prove positive for the local, county and state to do all we can to improve and promote growth in anyways possible.



Sincerely,

JOHN HAGGARD

Hi Lindsey,

After reviewing the Brown's application for a variance to build a pole barn on their property on Skegemog Point Road, we have decided we do not approve of the structure and the location. As a neighbor in close proximity, we feel it will diminish the aesthetics of the neighborhood and the natural beauty. It will block some of the neighbors views of the trees and the road. The trees they are saving are not in great condition from the storm or particularly significant or beautiful. Also it seems that the Browns will have to remove trees to have access to the barn. It is unclear as to where the doors to the pole barn will be located. I feel many of the neighbors outside of the 300 ft. boundary would not enjoy seeing the structure so close to our beautiful and natural road which is walked and enjoyed by everyone on the road. We also do not want to look at it out our door.

Thank you and Sincerely,

A Concerned and Affected Neighbor



T. C. RECORD-EAGLE, INC.  
120 WEST FRONT STREET  
TRAVERSE CITY MI 49684  
(231)946-2000  
Fax (231)946-8273

ORDER CONFIRMATION

Salesperson: DENISE LINGERFELT Printed at 04/08/19 14:14 by dling

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Acct #: 2055 Ad #: 516581 Status: New WHOLD

WHITEWATER TOWNSHIP CLERK Start: 04/09/2019 Stop: 04/09/2019  
CHERYL GOSS Times Ord: 1 Times Run: \*\*\*  
P.O. BOX 159 STDAD 3.00 X 2.68 Words: 192  
WILLIAMSBURG MI 49690 Total STDAD 8.04  
Class: 147 LEGALS  
Rate: LEGAL Cost: 86.70  
# Affidavits: 1

Contact: Ad Descrpt: LEGAL NOTICE WHITEWATER T  
Phone: (231)267-5141 Given by: EMAIL CHERYL GOSS  
Fax#: P.O. #:  
Email: clerk@whitewatertownship.org Created: dling 04/08/19 13:00  
Agency: Last Changed: dling 04/08/19 14:14

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PUB	ZONE	EDT	TP	START	INS	STOP	SMTWTF
RE	A	97	W	Tue 04/09/19	1	Tue 04/09/19	SMTWTF
IN	AIN	97	W	Tue 04/09/19	1	Tue 04/09/19	SMTWTF

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AUTHORIZATION

Thank you for advertising in the Record-Eagle, our related publications and online properties. If you are advertising with the Record-Eagle classifieds, your ad will begin running on the start date noted above.

Please be sure to check your ad on the first day it appears. Although we are happy to make corrections at any time, the Record-Eagle is only responsible for the first day's incorrect insertions. Also, we reserve the right to edit or reclassify your ad to better serve buyers and sellers.

No refunds or rebates will be issued if you cancel your ad prior to the stop date.

We appreciate your business.

(CONTINUED ON NEXT PAGE)

T. C. RECORD-EAGLE, INC.  
120 WEST FRONT STREET  
TRAVERSE CITY MI 49684  
(231)946-2000  
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT

Printed at 04/08/19 14:14 by dling

-----  
Acct #: 2055

Ad #: 516581

Status: New WHOLD WHOI

**LEGAL NOTICE**  
**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**NOTICE OF PUBLIC HEARING**

Please be advised that on APRIL 25, 2019 the Whitewater Township ZONING BOARD OF APPEALS will conduct a public hearing at a regular meeting 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 Suzanne Conant is requesting a dimensional variance to expand a nonconforming structure by 80 sq. ft. The existing residence lies within the 15' side setback. The property is located at 8032 Lakeside Trail Williamsburg, MI 49690. Parcel ID #28-13-430-003-00. Case #A19-004.

All persons are welcome and will be heard concerning the request. A copy of the application and zoning ordinance are available for viewing at the township hall. Written comments will be received until April 25, 2019 and should be addressed to the Whitewater Township Zoning Department, PO BOX 159, Williamsburg, MI 49690. Whitewater Township will provide necessary reasonable auxiliary aid and services to individuals with disabilities who plan on attending. Contact the Township Clerk at (231)267-5141 ext. 24 as soon as possible or the TDD at 800-649-3777.

April 9, 2019-1T

516581



# WHITEWATER TOWNSHIP



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

Case No. A 19-004 Date Rec. 4/8/19 Fee: \$250

## Property Information

Date Filed: 4 / 8 / 2019

Tax ID #: 28-13-430-003-00 Subdivision: Lakeside Shores Lot #: 7 Zoning District: R-1 Residential

Flood Plain: \_\_\_\_\_ Property Address: 8032 Lakeside Trail, Williamsburg Year Property was Acquired: 2018

Size of Lot: Front 133.26 Rear: 131.41 Side 1: 379.09 Side 2: 378.59

Present Use of Property: Vacant Home 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: This will be our permanent home. We would like to add on to the existing entryway for safety concerns. Currently, the entry door opens to the basement stairs with little room to maneuver around the door. Also, the stairs are small, steep and you must duck when going down the stairs. This addition would allow more footage away from the stairs to enter safely. It would also give us the space to correct the stairs to current building codes. The foundation was poured in 1969, prior to current set back ordinances.

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

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

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

Size of Addition: 80 sq. ft. Size of Existing Structure 996 sq. ft. Size of Existing Structure + Addition: 1,076 sq. ft.

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

## Owner/Applicant Information



Owner Name: Suzanne Conant

Mailing Address: 982 Strohm Rd. City: Traverse City State: MI Zip: 49696

Phone: ( 231 ) 357 - 2810 Fax: (        )        -        E-Mail: scdesign@charter.net

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

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

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

## A circular professional seal for Edward K. Heglin III, a Professional Surveyor in the State of Michigan. The seal features a rope-like outer border. Inside the border, the words "STATE OF MICHIGAN" are at the top and "LICENSED PROFESSIONAL SURVEYOR" are at the bottom, separated by two stars on each side. The center of the seal contains the text "EDWARD K. HEGLIN III", "PROFESSIONAL SURVEYOR", "No.", and "55428".

Edward  
03/13/19



● IRON FND  
 ○ IRON SET  
 ▲ P.K. FND.  
 △ P.K. SET  
 ⊙ MONUMENT FND.  
 ⊕ MONUMENT SET  
 (R) RECORD  
 (M) MEASURED

N00°05'00"E 379.09' (R)  
N00°12'33"E 379.09' (M)

EXISTING  
1-STORY FRAME  
RESIDENCE ON  
BLOCK  
BASEMENT.

PROPOSED  
8'X10'  
ADDITION

PROPANE  
TANK

PROPERTY ADDRESS:  
8032 LAKESIDE TRAIL

30'X60'	ASPHALT DRIVEWAY
---------	------------------

PROPOSED  
FUTURE  
DRAIN  
FIELD

LAKESIDE TRAIL (66')

S70°06'00"E  
14.76' (R)  
S72°15'58"E  
13.76' (M)

FD. IRON  
ROD &  
CAP  
#53089

CONCRETE  
BOAT  
RAMP

EXISTING  
BOAT  
HOUSE

WELL


S00°05'39"E	378.59'	(M)
S00°05'00"W	378.59'	(R)

FD. IRON  
ROD &  
CAP  
#41098

LOT 6

LOT 7, LAKESIDE SHORES SUBDIVISION;  
PART OF GOVERNMENT LOT 3 (THE  
SOUTHEAST FRACTIONAL 1/4) OF SEC 24,  
TOWN 28 NORTH, RANGE 9 WEST,  
WHITEWATER TOWNSHIP, GRAND TRAVERSE  
COUNTY, MICHIGAN.

SETBACKS:  
FRONT: 30'  
SIDE: 15'  
REAR: 30'  
WATERFRONT: 50'



**LEADING  
SURVEYING, LLC**

1302 E. 40 1/2 ROAD  
CADILLAC, MI 49601  
OFFICE: (231) 342-5012  
CELL: (231) 342-9892

DRN: ekh

CHK: EKH

DATE: 03/13/19

19-0017

PART OF GOV'T LOT 3  
SECTION 24, T28N, R9W  
WHITEWATER TOWNSHIP  
GRAND TRAVERSE COUNTY, MICHIGAN

SHEET  
1  
OF 1

## WHITEWATER TOWNSHIP PLANNING & ZONING DEPARTMENT STAFF REPORT April 25, 2019

### Request for Variance: Appeal #19-004

On 4/8/2019, a request for a dimensional variance was received from Suzanne Conant 8032 Lakeside Trail, Williamsburg, MI 49690. She is requesting a variance to expand a nonconforming structure. The existing structure is within the 15' side setback in the Residential R-1 Zoning District. **The proposed addition would expand the nonconforming structure by 80 sq. ft.** A public hearing notice was published in the Record Eagle on April 9, 2019, and put on the Township website. A total of twelve (12) 300' foot mailers were mailed on April 10, 2019.

The request for variance is based upon **practical difficulty** due to unique conditions and circumstances of the land, which must be determined by the Zoning Board of Appeals. The applicant states, "We would like to add on to the existing entryway for safety concerns. Currently, the entry door opens to the basement stairs with little room to maneuver around the door. Also, the stairs are small, steep and you must duck when going down the stairs. This addition would allow more footage away from the stairs to enter safely. It would also give us the space to correct the stairs to current building codes. The foundation was poured in 1969, prior to current set back ordinances."

### **Applicable Zoning Ordinance Section**

If the Board of Appeals decides to grant the variance they would be granting a variance to:

Article IV Section 4.15 Extension of Nonconforming Use or Structure

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

This is due to the current location of the building being located within the fifteen (15) foot side yard setback. Article XII, Section 12.11 – Schedule of Regulations – R-1 Minimum Side-yard setback.

### **Section 12.11 Schedule of Regulations for R-1 District**

- Minimum Lot Width: One Hundred (100) Feet
- Minimum Lot Area: Twenty Thousand (20,000) FT<sup>2</sup>
- Front Yard Setback: Fifty (50) Feet from Water's Edge
- Side Yard Setback: Fifteen (15) Feet
- Rear Yard Setback: Thirty (30) Feet
- Maximum Structure Height: Thirty Five (35) Feet
- Depth Ratio: 1:4

### **Notes to Section 12.11**

1. No structure shall be built within the minimum yards required except when expressly allowed elsewhere in this Ordinance.



### Property Description

Tax ID #: 28-13-430-003-00

Lot Dimensions: 131' x 379', approximately 1.184 acres of land



## Legal Description

W 718 19-G LOT 7, LAKESIDE SHORES SUBDIVISION

## Section 18.70 Application of Variance Power

A variance grants permission to depart from a requirement or limitation of the zoning ordinance. There are two types of variances:

1. Use Variance
2. Non-Use Variance

In this specific case, we are dealing with a **Non-Use (Dimensional) Variance request**.

Non-Use Variance. The Zoning Board of Appeals may grant a non-use variance only upon finding that **practical difficulty** exists. A non-use variance is variance from any standard or requirement of the Ordinance, such as, but not limited to, a deviation from density, bulk, setback, parking landscaping and sign standard requirements.

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

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

Observing the spirit of the Ordinance means that the Zoning Board of Appeals understands the potential effects one or several variances could have on the effectiveness of the Ordinance. The fundamental purpose is to promote the health, safety, and general welfare of the inhabitants of the Township.

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

---

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

Single family dwellings are a permitted use within the R-1 Zoning District.

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

---

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

This indicates that if approved, the variance will not create an unsafe condition - it also applies to others who might be affected by the variance, such as neighboring property owners. It is appropriate for the Zoning Board of Appeals to take the comments from the public into consideration to determine whether or not the variance may adversely affect nearby properties, zoning district, or the Township. A letter of support was received from the neighbors directly to the east (8016 Lakeside Trail). The addition will be built outside of the setbacks/will not further encroach upon the neighbors/fits in with the character of the surrounding neighborhood.

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

---

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

Meeting this standard requires the requested variance be related to the characteristics of the property and not to the personal situation of the applicant.

As stated earlier, the request for a variance is based upon **practical difficulty** due to unique conditions and circumstances of the land, which must be determined by the Zoning Board of Appeals. The applicant states, "We would like to add on to the existing entryway for safety concerns. Currently, the entry door opens to the basement stairs with little room to maneuver around the door. Also, the stairs are small, steep and you must duck when going down the stairs. This addition would allow more footage away from the stairs to enter safely. It would also give us the space to correct the stairs to current building codes. The foundation was poured in 1969, prior to current set back ordinances." In this case, practical difficulty is the structure was built prior to the Zoning Ordinance (1972)/before setbacks were established. The real estate summary sheet confirms this being built in 1971.

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

---

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

Property owners are given certain rights to use their property within the limits allowed by the Ordinance. This variance will bring the current structure up to code, and it safer for the occupants. Have there been any other variances granted in this area? It is also important to note that each variance granted on a case by case basis – because one variance is granted does not mean that another be granted in the same district.

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

---

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

Section 18.08 (B) states: No more than the minimum variance from the terms of the Ordinance shall be granted which is necessary to relieve the practical difficulty or necessary hardship. The size of the proposed structure on the application states 80 sq. ft; this addition would allow more footage away from the stairs to enter safely. It would also give us the space to correct the stairs to current building codes.

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

---



**7. The practical difficulty is not self-created.**

The foundation was poured in 1969, prior to current set back regulations. In this case the Zoning Ordinance has created the problem.

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

---

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

It is also important to note: Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within one (1) year after granting of the variance. An extension, not to exceed one year may be granted upon request of the applicant (Section 18.80(C)) .

The applicant has no infractions that would impair the granting of the variance.

Respectfully Submitted,  
*Lindsey Wolf*

Lindsey Wolf, Zoning Administrator  
Whitewater Township  
[zoning@whitewatertownship.org](mailto:zoning@whitewatertownship.org)  
(231)267-5141 Ext. 21

# Real Estate Summary Sheet

\*\*\*Information herein deemed reliable but not guaranteed\*\*\*

04/15/2019 1:17 PM

**Parcel:** 13-430-003-00  
**Owner's Name:** CONANT SUZANNE  
**Property Address:** 8032 LAKESIDE TR  
WILLIAMSBURG, MI 49690  
**Liber/Page:** 2018R-10304  
**Split:** / /  
**Public Impr.:** Dirt Road, Electric  
**Topography:** Level, Waterfront

**Current Class:** 401.RESIDENTIAL – IMPROVED  
**Previous Class:** 401.RESIDENTIAL – IMPROVED  
**Gov. Unit:** 13 WHITEWATER TOWNSHIP  
**MAP #** 36  
**School:** 05060 ELK RAPIDS  
**Neighborhood:** 4010 4010 SKEGEMOG LAKE

**Created:** / /  
**Active:** Active

## Mailing Address:

CONANT SUZANNE  
982 STROHM RD  
TRAVERSE CITY MI 49696

## Most Recent Sale Information

Sold on 06/11/2018 for 0 by BYRD VERA E.

**Terms of Sale:** BUSINESS/RELATION

**Liber/Page:** 2018R-10304

## Most Recent Permit Information

None Found

## Physical Property Characteristics

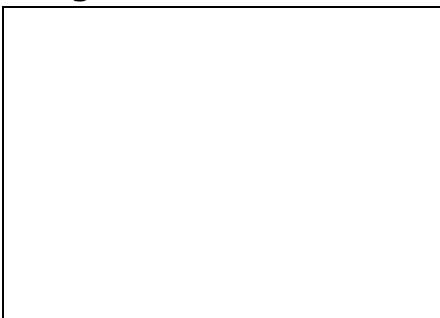
<b>2020 S.E.V.:</b>	Tentative	<b>2020 Taxable:</b>	Tentative	<b>Lot Dimensions:</b>	
<b>2019 S.E.V.:</b>	225,000	<b>2019 Taxable:</b>	102,712	<b>Acreage:</b>	1.18
<b>Zoning:</b>	R1-RES	<b>Land Value:</b>	Tentative	<b>Frontage:</b>	133.3
<b>PRE:</b>	0.000	<b>Land Impr. Value:</b>	Tentative	<b>Average Depth:</b>	387.0

## Improvement Data

# of Residential Buildings: 1  
Year Built: 1971  
Occupancy: Single Family  
Class: CD  
Style: ONE STORY  
Exterior: Alum., Vinyl  
% Good (Physical): 59  
Heating System: Electric Baseboard  
Electric - Amps Service: 100  
# of Bedrooms: 0  
Full Baths: 1 Half Baths: 0  
Floor Area: 996  
Ground Area: 996  
Garage Area: 512  
Basement Area: 896  
Basement Walls:  
Estimated TCV: Tentative

# of Agricultural Buildings: 1  
Estimated TCV: Tentative  
Cmts: BUILT IN

## Image



4/12/19

To the Zoning Board of Appeals -

We are next door neighbors to 8032 Lakeside Tr.  
We fully support Suzanne Conant's request for  
a dimensional variance on the property.

Sincerely,

Thomas L McChue

Shelle McChue

8016 Lakeside Trail