

**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**Agenda for Regular Meeting on Thursday, January 24, 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. Approval of Minutes of November 29, 2018
6. Scheduled Public Hearing: Appeal #19-001 Pat & Lori Lannen, 10101 Miami Beach Road, Williamsburg, MI 49690, is requesting a dimensional variance. Parcel is in the R-1 Zoning District. Parcel #28-13-310-008-00.
  - a. Open Public Hearing on Appeal #19-001
  - 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. Other Matters to be Reviewed by the Zoning Board of Appeals
  - a. Correspondence Received
  - b. Election of 2019 Officers
  - c. Annual Review of ZBA Bylaws
  - d. Resolution ZBA#19-01 Fiscal year 2019/2020 Regular Meeting Dates
8. Report of Planning Commission Representative
9. Report of Township Board Representative
10. Report of Zoning Administrator
11. Adjournment

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS  
REGULAR MEETING OF November 29, 2018  
5777 Vinton Road, Williamsburg, Michigan

Call to order by Chair at 7:02 p.m.

Roll Call: Bowen, Garza, Halstead, Hooper, Lake, Shaffer

Absent: Benak,

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 September 27, 2018, by Hooper, second by Bowen. On voice vote, all in favor. Motion carried.

Scheduled Public Hearing:

- A. Public Hearing on Appeal #18-002 Kirk & Joy Morris, 10125 Miami Beach Rd., Williamsburg, MI 49690, is requesting dimensional variance. Parcel is in the R-1 (Residential) Zoning District.
  - a. Open Public Hearing on Appeal #18-002 at 7:05 p.m. For Kirk & Joy Morris, parcel #28-13-310-010-00, 10125 Miami Beach Rd., Williamsburg MI 49690. Requesting a dimensional variance of Article XII, Section 12.11 – Schedule of Regulations – R-1, Minimum Side-yard setback and minimum front-yard setback. Requesting a 2'7" side-yard setback variance on the east side and 5'4" front-yard (lake side) setback from the required 15' side-yard setback and 50' front-yard setback for construction of an addition of a second story on an existing home/garage.
  - b. Zoning Administrator Presentation The legal notice of public hearing was posted in the Record Eagle November 12, 2018. Notices were also sent out to property owners within 300 ft. of the property. Survey was completed on the property. Older, existing home, adding a second story, the existing home is already in the setback.  
Tom Kellogg, a neighbor contacted the ZA. He was concerned about the water run-off. ZA let him know there are no changes to the foundation, the roofline angle is going to be the same.
  - c. Petitioner Presentation: Kirk / Joy Morris, 7221 Davies Dr., NE, Rockford, MI 49341. Purchased the end of June. It is a 49 year old home. Morris's are in the remodeling business. Have lot 13' due to erosion on the lake side. Not changing the footprint, just going straight up and adding an 8x10 addition between the house and garage.  
Are the footings adequate? Yes – poured concrete walls.
  - d. Report on Site visit: Bowen: The lake is close. There is no place to go but up. Worried about the lake encroaching more? NO.  
Lake: You just got a new well. Joy: the house was gutted when we purchased it.
  - e. Correspondence: Kellogg indicates that his concerned has been addressed.
  - 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 #18-001 at 7:20 p.m.
- j. Discussion of appeal: Lake: The only reason for the appeal is the going up. Because it was already non-conforming, that is why it has had to come to the ZBA. If it were a new build that would be a different story. This is more a formality. Morris indicates information has been submitted to GTC. GTC cannot approve with the variance.  
Bowen does not see any issues.  
Sewer system. Will be hooking up to the gas.
- k. Findings of Fact: Not changing the footprint.

#### **Standards for Nonuse or Dimensional Variance**

Granting of a nonuse (dimensional) variance requires the existence of a ***practical difficulty***, which is demonstrated by showing that:

1. **Special or unique conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district.**

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

Special conditions or circumstances that are related to the property are generally physical characteristics that may normally include:

- Exceptional narrowness, shallowness or shape
- Exceptional topographic conditions or other extraordinary situations related to the property; or
- Use or development of the property immediately adjoining the property in question.

As with all variances, the principal is that the variance is needed to relieve a ***practical difficulty*** caused by unique conditions present on the land and in this case, the "***practical difficulty***" may be identified as the Steepness of the Slope.

**Determined by the Zoning Board of Appeals. Consensus: YES \_xxxxx\_ NO \_\_**

- 
2. **A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary.**

Property owners are given certain rights to use their property within the limits allowed by the zoning ordinance.

This standard permits the Zoning Board of Appeals to modify the request of the applicant to accommodate the special condition or circumstance but only approve the amount of variance is necessary to do so.

**Determined by the Zoning Board of Appeals. Consensus: YES \_xxxxx\_ NO \_\_**

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3. **The special conditions and circumstances do not result from the actions of the applicant.**

A buyer of a lot that cannot be developed without a variance may ask that the Zoning Board of Appeals grant a variance to allow use of the lot. In this case, the applicant did not take an affirmative action by creating the lot. Accordingly, this standard should not be used as a reason for denial (although the variance still must meet the other standards of the ordinance).

**Determined by the Zoning Board of Appeals. Consensus: YES \_xxxxx\_ NO \_\_**

- 
4. **The granting of the variance will be in harmony with the general purpose and intent of this ordinance.**

Whether the Zoning Board of Appeals agrees or disagrees with any provision in the ordinance is irrelevant. The Zoning Board of Appeals function is to enforce the provisions of the ordinance, except in very specific instances where conditions

exist that would make compliance with the requirements impractical. Those conditions are defined by the review standards of the ordinance.

**Determined by the Zoning Board of Appeals. Consensus: YES \_xxxxx\_ NO \_**

- 
5. **The granting of the variance will not be injurious the neighborhood or otherwise detrimental to the general welfare.**  
As with any zoning action, the result of the proposed variance should not be harmful to adjacent properties. While the opinions of surrounding property owners are useful, they should not be given absolute weight. The role of the public is not to give their blessing or veto, but to provide the Zoning Board of Appeals with information useful to its decision making process.

On the other hand, it's appropriate for the Zoning Board of Appeals to take the comments of the public into consideration to determine whether or not the variance may adversely affect nearby property or the neighborhood.

**Determined by the Zoning Board of Appeals. Consensus: YES \_xxxxx\_ NO \_**

- 
6. **The spirit of the ordinance shall be observed, public safety secured and substantial justice done.**  
Observing the spirit of the ordinance will mean that the Zoning Board of Appeals understands the potential effects one or several variances could have on the effectiveness of the zoning ordinance. "Public safety secured" indicates that the variance, if approved, will not create an unsafe condition. While "substantial justice" directly addresses fairness to the applicant, it also applies to others who might be affected by the variance, such as neighboring property owners.

**Determined by the Zoning Board of Appeals. Consensus: YES \_xxxxx\_ NO \_**

Based on the six questions.

- l. Conclusion: Approve the request. It is an existing encroachment to the setback. The home was grandfathered in when zoning was implemented
- m. Reasons for Conclusion: The current house / garage are already within the setback.
- n. Based on the findings of fact as presented.
- o. Decision: Approve the request.
- p. Motion by Bowen, second by Shaffer to approve the request on the ZBA Appeal 18-002, build the second story on the exiting house. On voice vote, all those present voted in favor, none opposed. Motion carried.

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

Planning Commission Representative report: Hooper: PC is close to ready to get the zoning ordinance sent out for recodification.

Township Board Representative report: Benak: Interviews have been completed and job off presented for full time position.

Zoning Administrator report: There are a couple more ZBA cases that will be coming shortly. The ZBA appreciates Chris's work for the township – Thank you.

Next regularly scheduled meeting will be December 27, 2018, if it is necessary.  
January 24, 2019, is a mandatory meeting.

Adjourned at 7:51 p.m.

Respectfully submitted by  
Recording Secretary  
Lois MacLean

DRAFT

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 01/03/19 16:36 by dling

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Acct #: 2055

Ad #: 510479

Status: New

WHITEWATER TOWNSHIP CLERK  
CHERYL GOSS  
P.O. BOX 159  
WILLIAMSBURG MI 49690

Start: 01/06/2019 Stop: 01/06/2019  
Times Ord: 1 Times Run: \*\*\*  
STDAD 3.00 X 2.79 Words: 213  
Total STDAD 8.37  
Class: 147 LEGALS  
Rate: LEGAL Cost: 108.25  
# Affidavits: 1

Contact:

Phone: (231)267-5141

Fax#:

Email: clerk@whitewatertownship.org

Agency:

Ad Descrpt: LEGAL NOTICE WHITEWATER

Given by: EMAIL CHERYL GOSS

P.O. #:

Created: dling 01/03/19 16:20

Last Changed: dling 01/03/19 16:36  
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| PUB | ZONE | EDT | TP | START        | INS | STOP         | SMTWTFS |
|-----|------|-----|----|--------------|-----|--------------|---------|
| RE  | A    | 97  | W  | SUN 01/06/19 | 1   | SUN 01/06/19 | SMTWTFS |
| IN  | AIN  | 97  | W  | SUN 01/06/19 | 1   | SUN 01/06/19 | SMTWTFS |

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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 01/03/19 16:36 by dling

-----  
Acct #: 2055

Ad #: 510479

Status: New

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

Please be advised that on **THURSDAY JANUARY 24, 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, Pat & Lori Lannen, are requesting a variance to construct an attached garage within the 15' side and 30' rear setbacks. The proposed garage would be 6'9" from the eastern, side lot line and 1'6" from the southern, rear lot line located along Miami Beach Road. The property is located at 10101 Miami Beach Road Williamsburg, MI 49690. Parcel ID #28-13-310-008-00.

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 January 24, 2019 and should be addressed to the Whitewater Township Zoning Department, PO BOX 159, Williamsburg, MI 49690. Whitewater Township will provide necessary reasonable auxiliary aids 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.

January 6, 2019-1T

510479

# WHITEWATER TOWNSHIP



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

Case No. A-19-001

Date Rec. 12/19/18

Fee: \$250

## Property Information

Date Filed: 10/25/2018

Tax ID # 28-13-311-008-00 Subdivision: Clearwater Beach <sup>sub.</sup> Lot #: 8 Zoning District: R-1 Residential

Flood Plain: \_\_\_\_\_ Property Address: 10101 Miami Beach Rd Year Property was Acquired: 1999

Size of Lot: Front 70' Rear: 70' Side 1: 150' Side 2: 150'

Present Use of Property: Weekend Home Past Variances on Property in Question (Y ☒ N ☐)

If So State Case No. and Resolution of Appeal: not to my knowledge

## Request Information

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

Description of Request: Build an attached Garage to the House for cars and to store other items. see attached: Description of Request, Site Plan, Survey, and Google Photo.

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

New Structure (Y/N) If So, Size of Proposed Structure (Square Feet): 672'

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

Size of Addition: 672' Size of Existing Structure 1,179' Size of Existing Structure + Addition: 1,851'

Ordinance in Question (if any): Art. X11 Sec. 12.11

## Owner/Applicant Information

Owner Name: Pat Lannen, Lori Lannen

Mailing Address: 1722 Secretariat Dr SE City: Grand Rapids State: MI Zip: 49546

Phone: (616) 822-4856 Fax: ( ) E-Mail: patlorilannen@tds.net

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

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

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



Description of Request  
10101 Miami Beach Rd  
Williamsburg, MI

We purchased our 70' x 150' lot in 1999. The house was built in 2003 without a Garage. Because of the high water table there is no basement or crawl space for storage.

This February I am retiring and <sup>will</sup> move to and live fulltime at this property.

We are requesting a side and rear yard dimensional variance to build a Garage attached to the rear of the house.

The plan requires a side yard set back at about 6' 9" with a 8' 3" boundary variance and a rear yard (road side ROW) of about 27' 7" which leaves about 25' of driveway from garage to paved private road.

The majority of the Garage would be built over the existing cement driveway.

The Plan is for a Stick built garage with the same siding as the house built by the same builder.

I would like a Garage for cars and to store other items inside. Miami Beach Road is a private deadend drive owned by the Miami Beach Road Association.

The Garage cannot be built to the west of the current cement driveway because of under ground 2 stage ~~se~~ 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 would also cover the entrance in to the house.

1 Site Plan with existing house and proposed Garage scale 1" to 20'.

2. New Survey September 2018 shows existing house and driveway where a large Part of the Garage would be built.

(3)

3. Google Photos show 10101 Miami Beach (Red mark) and the general appearance of the surrounding properties with garages.

I believe this request for a dimensional variance is consistent with the current development in the surrounding properties, will allow us to have more reasonable use of the property - but not impact anything not enjoyed by my neighbors.

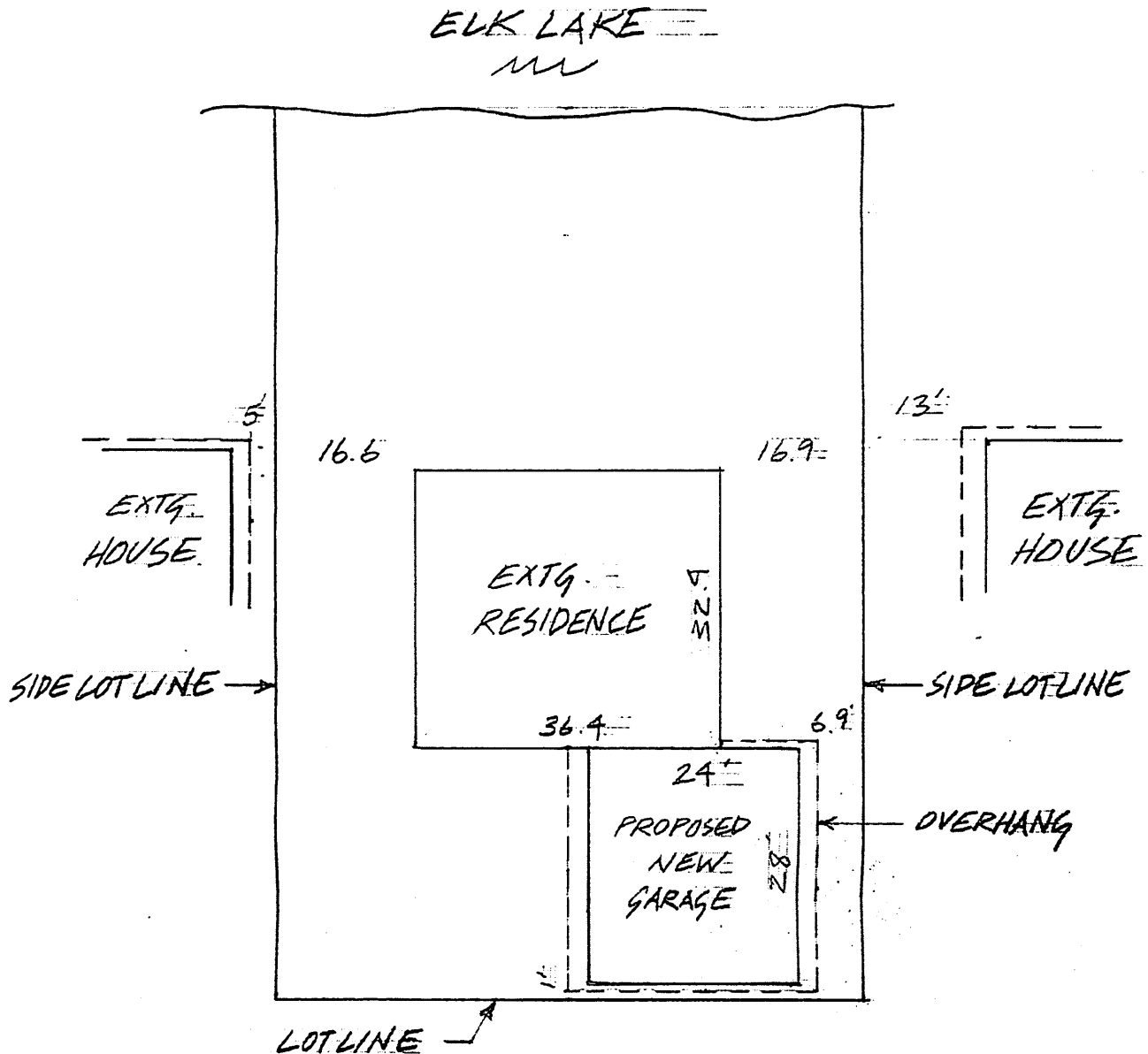
Thank you for your consideration.

Please contact me if any additional information is needed.

Pat Lannen

1.

PAT & LORI LANNEN  
SITE PLAN FOR ZONING VARIANCE FOR  
PROPOSED NEW GARAGE  
DRAWN BY - KEN VANHOUTEN - 10/22/2018

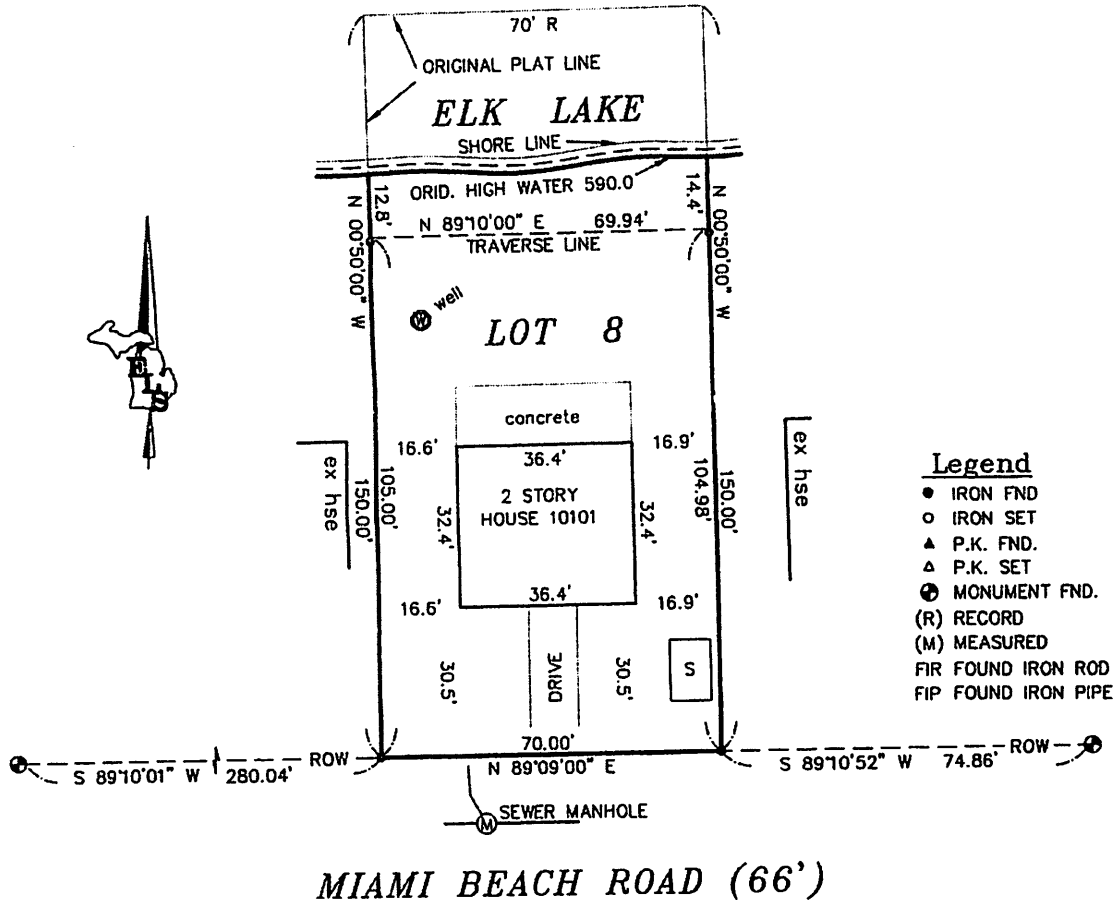


SITE PLAN VIEW  
SCALE - 1" = 20'

2.

# Certificate of Survey

## CLEARWATER BEACH SUB.

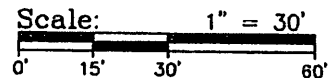


### DESCRIPTION

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

Lot 8, "CLEARWATER BEACH SUBDIVISION" as recorded. Being part of Government Lot 3 of Section 26, Town 28 North, Range 9 West.

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



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 2002-281

NEIL L. WAY  
Licensed Surveyor Number: 28432

|   |   |                        |              |
|---|---|------------------------|--------------|
| <b>EAGLE LAND SURVEYING, Inc.</b><br><br>7164 EAGLE'S WAY LANE<br>KEWADIN, MI 49648 | (231) 264-9110<br>FAX: 264-9311<br>eaglelandsurvey@aol.com  | For: <b>PAT LANNEN</b> |              |
|   | Part of Gov't. Lot 3, Sec. 26,<br>T28N, R9W, Whitewater Township,<br>Grand Traverse County, Michigan. |                        |              |
|   | Date: Sept. 12, 2018  | File No.: 2018-142     |              |
|   | FB/PG: N.A.   | Drafted By: NLW        | Sheet 1 of 1 |

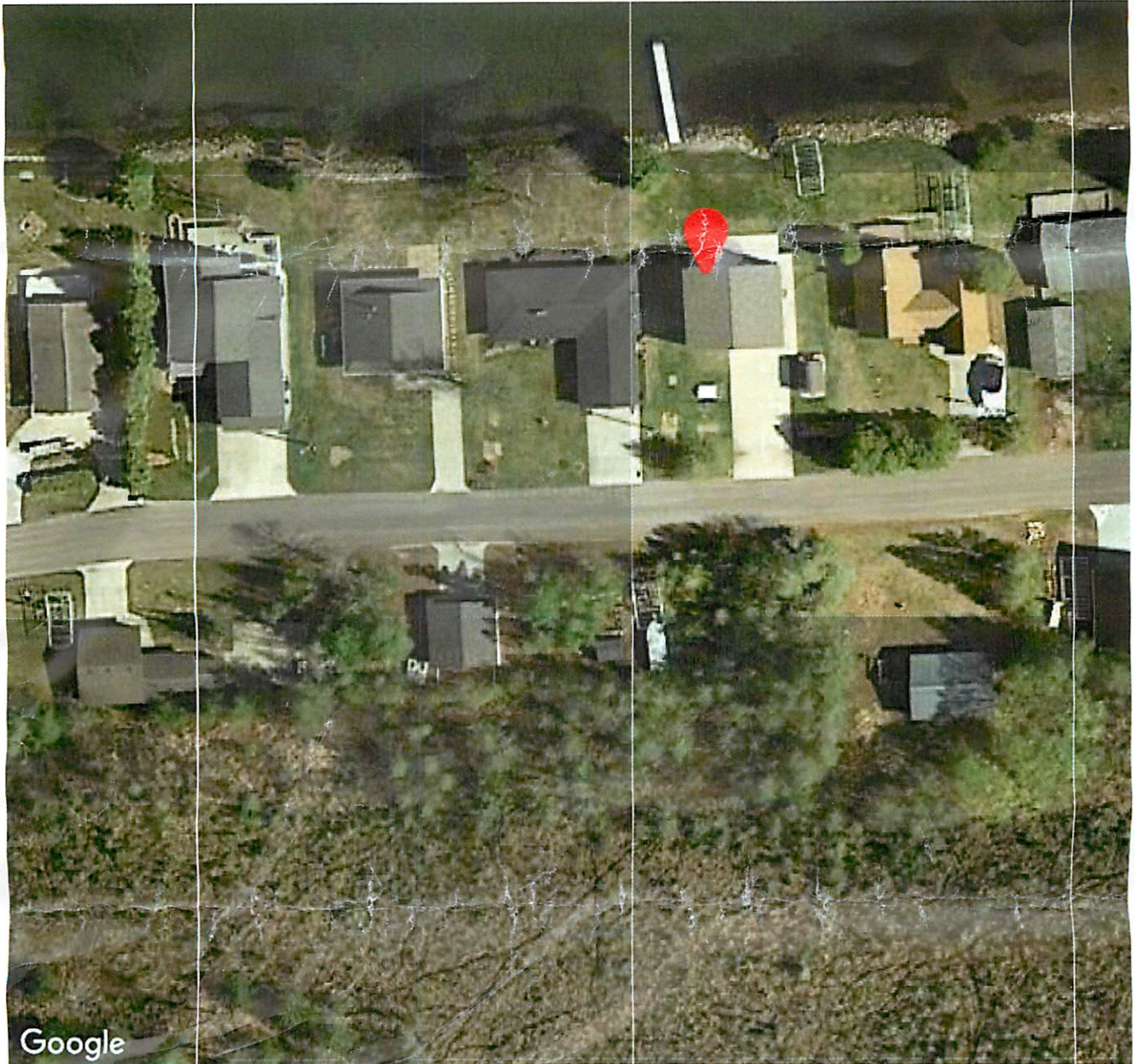
Drwg File: 2018-142.dwg

3.

GET THE APP 


MY RE/MAX 

     
SAVE ALERTS PLACES SHARE





Not for Sale

Estimate 

Homes.com Home Estimate\*

4 beds | 2 baths | 1,152 sqft

[REDACTED]

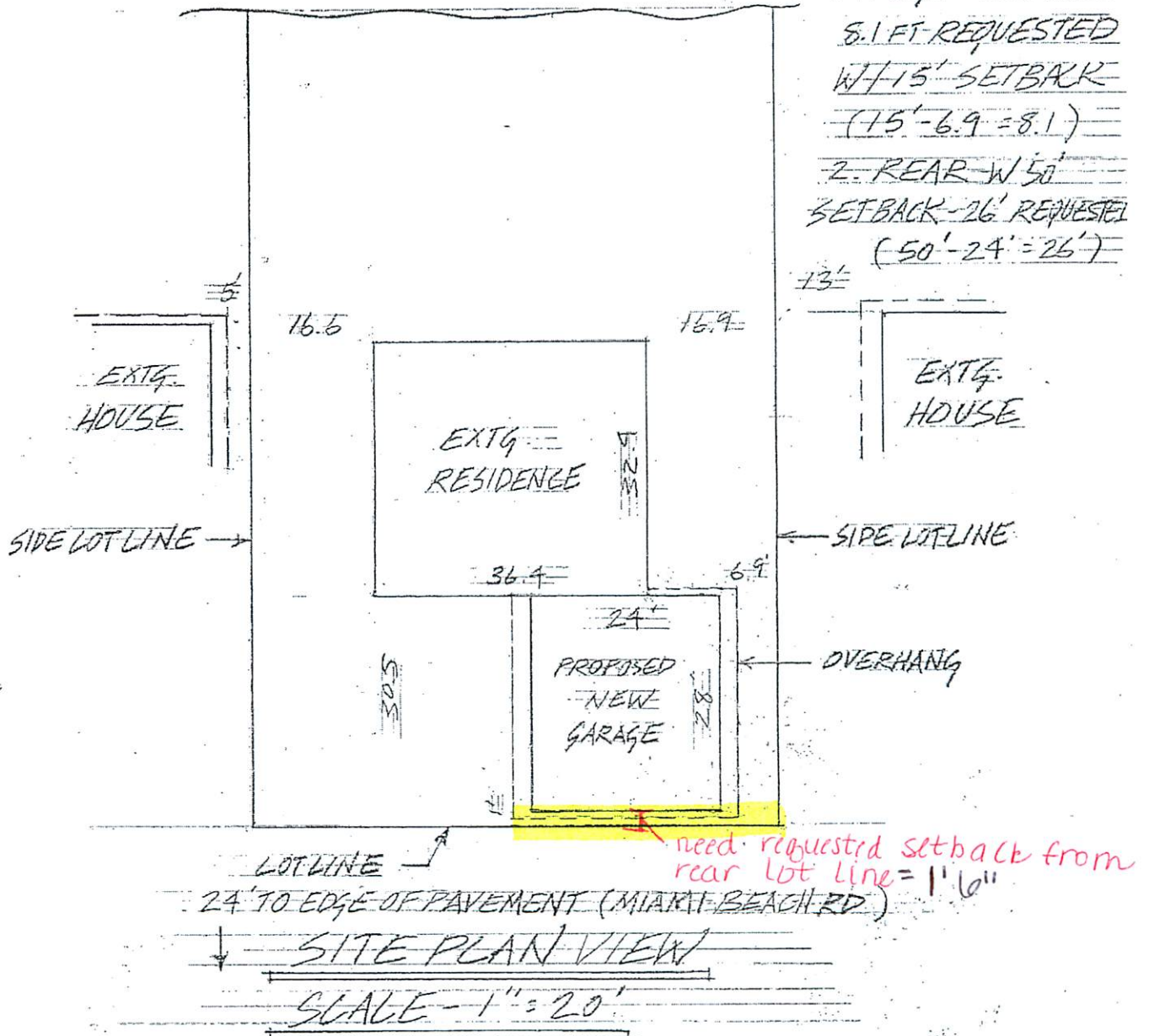


PAT & LORI LANNEN  
SITE PLAN FOR ZONING VARIANCE FOR  
PROPOSED NEW GARAGE  
DRAWN BY - KEN VANHOUTEN - 10/22/2018

ELK LAKE  
MI

2 - VARIANCES  
REQUESTED

1. RIGHT SIDELINE  
 8.1 FT REQUESTED  
 W/ 15' SETBACK  
 (15' - 6.9' = 8.1')
2. REAR W/ 50'  
 SETBACK - 26' REQUESTED  
 (50' - 24' = 26')



emailed to Ken Vanhoutenbuilder@torchlake.com  
 12/18/18

231.620.6549



## Zoning Administrator

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**From:** Kenneth VanHouten <kenvanhoutenbuilder@torchlake.com>  
**Sent:** Wednesday, December 19, 2018 9:03 AM  
**To:** Zoning Administrator  
**Subject:** Re: Lannen variance request

Hi Lindsay,

The distance from the rear lot line to the overhang of the proposed new garage is 1' - 6".

Ken

On Dec 18, 2018, at 12:33 PM, Zoning Administrator <[zoning@whitewatertownship.org](mailto:zoning@whitewatertownship.org)> wrote:

Hi Ken,

Please see attached pdf that we spoke about over the phone. The rear lot line can be found measuring 33' feet from the center line of the road. If you have any questions you know where to find me!

*Lindsey Wolf*  
Zoning Administrator  
Whitewater Township  
5777 Vinton Rd; P.O. Box 159  
Williamsburg, MI 49690  
(231) 267-5141 x21  
(231) 267-9020 (fax)  
[zoning@whitewatertownship.org](mailto:zoning@whitewatertownship.org)

<2018\_12\_18\_12\_30\_59.pdf>

**WHITEWATER TOWNSHIP PLANNING & ZONING DEPARTMENT STAFF REPORT  
JANUARY 24, 2019**

**Request for Variance: Appeal #19-001**

On 10/25/2018, a request for a dimensional variance was received from Pat and Lori Lannen 1722 Secretariat Drive SE, Grand Rapids, MI 49546 for the property located at 10101 Miami Beach Road, Williamsburg, MI 49690. The Lannens are requesting a variance to construct an attached garage within the 15' side and 30' rear setbacks in the Residential R-1 Zoning District. **The proposed garage would be 6'9" from the eastern, side lot line (8'3" variance) - and 1'6" from the southern, rear lot line (28'6" variance) located along Miami Beach Road.** A public hearing notice was published in the Record Eagle on January 6, 2019, and put on the Township website. A total of eleven (11) 300' foot mailers were mailed on January 8, 2019.

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 and Rear-yard setback.

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, "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."

**Applicable Zoning Ordinance Section**

**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.

**12.12 Hardship**

No requirements contained in this Article shall prevent the use of a lot or parcel of land of lesser size provided the same was of legal record or has been laid out by a registered surveyor prior to the effective date of this Ordinance: and provided, further, that in the case of any lot or parcel of land not of legal record or so laid out on the date of passage of this Ordinance, if any conditions shall create a hardship in complying with the restrictions contained in this article, then the Planning Commission may grant deviation therefrom after first determining the same shall not be inimical to public health, safety, or welfare.

**Property Description**

Tax ID #: 28-13-310-008-00

Lot Dimensions: 70' x 150' (10,500 ft<sup>2</sup>), approximately 0 .241 acres of land

**Legal Description**

Lot 8, "Clearwater Beach Subdivision" as recorded. Being a part of Government Lot 3 Section 26, and Town 28 North, Range 9 West. Platted lot.

**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 \_\_\_\_**

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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.

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. There was noted concern from a few residents regarding the run-off of water in that area due to the increase of impervious surfaces. This was stated in the meeting minutes from previous appeal #A12-006. There was also a question as to if this area was in a flood zone. The map indicates that this is an "area of minimal flood hazard" according the FEMA.



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. Please refer to the aerial view on the following page for reference.





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 \_\_\_\_ 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 \_\_\_\_ 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 \_\_\_\_ 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)) .

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

Respectfully Submitted,



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: January 9, 2019

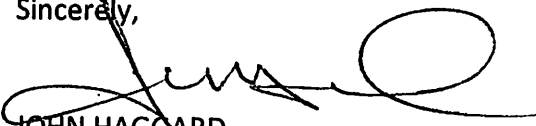
To: Whitewater Township Zoning Department  
PO Box 159  
Williamsburg, MI 49690

Re: Parcel ID: #28-13-310-008-00 Pat & Lori Lannen

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 not at all opposed to the changes of the property and/or the request to the Zoning Board. It would prove best that the rezoning of such properties would prove beneficial for all involved.

Sincerely,



JOHN HAGGARD

# Whitewater Township

## Zoning Board of Appeals Bylaws

The following rules of procedure are hereby adopted by the Whitewater Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101, *et seq.*

### SECTION 1: Officers

- A. Selection and Tenure**—At the first regular meeting in January of each year, or as soon as possible, the Zoning Board of Appeals shall select from its membership a Chairperson, Vice Chairperson and Secretary. An elected Township Official shall not serve as Chairperson. All officers shall serve a term of one year, or until their successors are selected and assume office, except as noted in C below. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. Chairperson**—The Chairperson shall preside at all meetings, appoint committees and perform such other duties as ordered by the Zoning Board of Appeals or Township Board.
- C. Vice Chairperson**—The Vice Chairperson shall act in the capacity of the Chairperson in his/her absence. In the event the office of Chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice Chairperson for the unexpired term.
- D. Secretary** – The Secretary shall act in the capacity of the Chairperson in the event that both the Chairperson and Vice Chairperson are absent. The Secretary shall also sign all minutes of the Zoning board of Appeals upon approval.

#### **D. Planning Commission Representative**

The Planning Commission representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Planning Commission and update the Zoning Board of Appeals on actions by the Planning Commission that relate to the functions and duties of the Zoning Board of Appeals.

#### **E. Township Board Representative**

The Township Board representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Township Board and update the Zoning Board of Appeals on actions by the Township Board that relate to the functions and duties of the Zoning Board of Appeals.

### SECTION 2: Meetings

- A. Meetings**—Meetings of the Zoning Board of Appeals shall be held on the Fourth Thursday of each month, or as noted below. All meetings shall take place at Whitewater Township Hall, 5777 Vinton Road, Williamsburg, MI 49690 at 7:00 P.M.
- B. Notice**—Meetings shall be noticed in the Township's newspaper of record not less than 15 days prior to the hearing. Notices shall also be mailed to property owners within 300' of the subject property. Meeting notices shall state the purpose, time and location of meetings and shall be posted in accordance with the Open Meetings Act.
- C. Public Records**—All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.



- D. Quorum**—A majority of the membership of the Zoning Board of Appeals shall constitute a quorum for transacting business and taking official action for all matters. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.
- E. Voting**—To pass or deny any variance, appeal or other official action required by the Zoning Ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals is required. Voting shall be by voice vote; a roll call vote shall be required if requested by any Zoning Board of Appeals member or directed by the Chairperson. All Zoning Board of Appeals members, including the Chairperson, shall vote on all matters, but the Chairperson shall vote last.
- F. Agenda**—The Chairperson shall be responsible for preparing an agenda for Zoning Board of Appeals meetings. The order of business for meetings shall be as follows:
1. Call to Order
  2. Roll Call
  3. Approval of Agenda
  4. Approval of Minutes
  5. Scheduled Public Hearings
  6. Other Matters to be Reviewed by the Zoning Board of Appeals
    - a. Correspondence Received
    - b. Zoning Board of Appeals Members
  7. Report of Planning Commission Representative
  8. Report of Township Board Representative
  9. Report of Zoning Administrator
  10. Adjournment
- G. Public Hearings**—All public hearings held by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals. The following rules of procedure shall apply to public hearings held by the Zoning Board of Appeals:
1. Chairperson opens public hearing and announces the subject.
  2. Chairperson summarizes procedures/rules to be followed during the hearing.
  3. Applicant presents request.
  4. Township Zoning Administrator presents a summary or analysis of the request.
  5. Persons wishing to comment on the request are recognized.
  6. Chairperson closes public hearing and returns to the regular/special meeting.
  7. Zoning Board of Appeals deliberates and decides.

To ensure that everyone has the opportunity to speak, the Zoning Board of Appeals may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the Chairperson allows. The Chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the Chairperson, in his/her discretion, may permit additional comments.

All comments by the public and the Zoning Board of Appeals shall be directed to the chairperson.

- H. Special Meetings**—Applicants to the Zoning Board of Appeals may request a special meeting, of which all costs shall be paid by the applicant; if there is more than one applicant, the costs shall be shared equally between all applicants. The business the Zoning Board of Appeals may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. Special meetings shall also be noticed as required by the Michigan Zoning Enabling Act, as amended, the Open Meetings Act and these bylaws.
- I. Recording Secretary**—A recording secretary shall be provided to the Zoning Board of Appeals. The recording secretary shall execute documents in the name of the Zoning Board of Appeals, perform the duties hereinafter listed below and shall perform such other duties as the Zoning Board of Appeals may determine.

1. **Minutes**—The recording secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the Township Clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.
2. **Correspondence**—The recording secretary shall be responsible for presenting all communications to the Zoning Board of Appeals.
3. **Attendance**—The recording secretary shall be responsible for maintaining an attendance record for each Zoning Board of Appeals member and report those records annually to the Zoning Board of Appeals for inclusion in the annual report to the Township Board.

### **SECTION 3: Duties of the Zoning Board of Appeals**

The Zoning Board of Appeals shall perform the following duties:

- A. Act on applications for variances, appeals, interpretations, or other matters as required by the zoning ordinance and Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101, *et seq.*
- B. Prepare an annual budget and annual report for the Zoning Board of Appeal's activities and submit to the Township Board.
- C. Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of a Zoning Board of Appeals member, and for which appropriations of funds have been approved by the Township Board, as needed.
- D. Perform other duties and responsibilities as requested by the Township Board or as may be specified in another Township Ordinance.
- E. Conduct site visits as deemed necessary to evaluate an application and supporting material. Site visits shall be conducted individually.

### **SECTION 4: Duties of the Zoning Administrator**

- A. The Zoning Board of Appeals shall be assisted by the Zoning Administrator in performing the duties of the Zoning Board of Appeals, as noted in Section 3.
- B. The Zoning Administrator shall be responsible for the professional and administrative work in coordinating the functions of the Zoning Board of Appeals.
- C. The Zoning Administrator shall:
  1. Accept applications for matters to be reviewed by the Zoning Board of Appeals and ensure that such applications are complete.
  2. Forward application materials to the Zoning Board of Appeals at least one week prior to the meeting at which such matters will be considered.
  3. Inform the Zoning Board of Appeals of administrative and enforcement actions taken on behalf of the Township related to the Zoning Ordinance or other appropriate ordinance.
  4. Prepare written reviews and recommendations, if appropriate, for all requests and development proposals to be considered by the Zoning Board of Appeals.
  5. Perform other duties as may be directed by the Zoning Board of Appeals.
- D. The Zoning Board of Appeals may be assisted by other professional or Township staff as needed, including the Township Attorney, Township Engineer or other person or agency.

### **SECTION 5: Absences, Removals, Resignations, Vacancies and Alternates**

- A. To be excused, Zoning Board of Appeals members shall notify the Township Clerk, Zoning Board of Appeals Chairperson or other Zoning Board of Appeals member when they intend to be absent

from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence.

- B.** Members of the Zoning Board of Appeals may be removed by the Township Board, after written charges have been prepared and a hearing conducted, for nonperformance of duty, misconduct in office or upon failure to declare a conflict of interest. For purposes of this section, nonperformance of duty shall mean two or more consecutive, unexcused absences. Alternates shall be notified to attend a meeting any time a regular member will be absent.
- C.** A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Township Supervisor, Township Board or Zoning Board of Appeals Chairperson.
- D.** Vacancies shall be filled by the Township Board within one month of resignation or removal of a member of the Zoning Board of Appeals. Successors shall serve out the unexpired term of the member being replaced, with the exception of the Planning Commission representative, whose term shall run consecutively with the term as Planning Commissioner.
- E.** The Township Board may appoint not more than two alternates to the Zoning Board of Appeals. The alternate member may be called to sit as a regular member as provided in the Zoning Ordinance and the Michigan Zoning Enabling Act.

## **SECTION 6: Conflict of Interest**

- A.** Zoning Board of Appeals members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:
  - 1. A relative or other family member is involved in any request for which the zoning board of appeals is asked to make a decision;
  - 2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency or association;
  - 3. The Zoning Board of Appeals member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the Zoning Ordinance or other applicable ordinance, or
  - 4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.
  - 5. The Zoning Board of Appeals member is also a member of the Planning Commission or the Township Board and voted on the same matter as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.
- B.** The Zoning Board of Appeals member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the zoning board of appeals. He or she should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member declaring a conflict may absent him/herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally protected rights to participate. He or she should not make any presentations to the Zoning Board of Appeals as a representative of the proposal.

## **SECTION 7: Amendments**

These bylaws may be amended at any meeting by a vote of a majority of the membership of the zoning board of appeals.

Adopted by the Whitewater Township Board at their regular meeting \_\_\_\_\_.

Resolution #ZBA19-01

Resolution for Whitewater Township Zoning Board of Appeals  
Regular Meeting for 2019/2020  
Whitewater Township  
Grand Traverse County, Michigan

**Be It Resolved** that the Whitewater Township Zoning Board of Appeals will meet in regular sessions, as needed, for the 2018/2019 fiscal year on the following dates at 7 p.m. at the Whitewater Township Hall, 5777 Vinton Rd., Williamsburg, Michigan.

Thursday, April 25, 2019  
Thursday, May 23, 2019  
Thursday, June 27, 2019  
Thursday, July 25, 2019  
Thursday, August 22, 2019  
Thursday, September 26, 2019  
Thursday, October 24, 2019  
Thursday, November 21, 2019\*  
Thursday, December 26, 2019  
Thursday, January 23, 2020  
Thursday, February 27, 2020  
Thursday, March 26, 2020

\*November meeting is different than the normal fourth Thursday. Fourth Thursday in November is Thanksgiving.

A motion to adopt the foregoing Resolution was made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Upon roll call vote, the following voted:

Bowen -  
Benak -  
Hooper -  
Halstead  
Lake -  
Shaffer -  
Garza -

Resolution declared adopted.

I, \_\_\_\_\_, 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 certain proceedings taken by the Whitewater Township Zoning Board of Appeals of said municipality at a regular meeting held on \_\_\_\_\_, relative to the adoption of Resolution #ZBA19-01.

\_\_\_\_\_