

**D R A F T**  
**Whitewater Township Zoning Board of Appeals**  
**Minutes of 5/18/10 Regular Meeting**

**Call to Order**

Chairman Millar called the meeting to order at 7:03 p.m.

**Roll Call**

Members Present: Benak, Lake, Miller, Millar

Members Absent: Halstead (excused), Bowman (excused)

Also Attending: Planning/Zoning Administrator Meyers,  
Planning/Zoning Intern/Recording Secretary Akers plus 4 others

**Set/Adjust Agenda**

No adjustments to Agenda

**Approval of Minutes**

Motion by Lake, seconded by Benak, to approve the 2/25/10 Regular Meeting Minutes.

**Motion Carried 4-0.**

**Business Session:**

**Public Hearing on Appeal #A3-10, Richard Kluck; Parcel Number 13-127-001-02**

Hearing to consider a variance from Article 4.15, to allow for a remodel of the Pine Rest Cabin. Applicant proposes the removal of the current bathroom on the south side of the cabin and to incorporate the equivalent square footage to the north section of the cabin and other improvements to the cabin including:

- New foundation under north portion of cabin
- Repair or replace foundation as needed under main section of cabin
- Rebuild the walls on the north section and install half log siding
- Relocate kitchen and bathroom to the north section of cabin
- Replace or repair rotting walls on main cabin area
- Install new windows and doors
- Install new electrical wiring
- Eventually install new roof

**Open Public Hearing**

Chairman Millar opened the public hearing at 7:07 p.m.

**Zoning Administrator Presentation – Report attached**

Mr. and Mrs. Kluck are requesting a variance to remodel the Pine Rest Cabin at the Pines Cottages LTD. The applicant specifically requests a variance from Article IV – Accessory and Nonconforming Uses and Buildings. In addition to her report Meyers addressed a concern from Chairman Millar about a previous hearing on the said building. On 9/27/2007 the previous owner of the Pine Rest Cabin requested a variance from the Zoning Board of Appeals. The Zoning Board of Appeals tabled the request due to a legal issue with the owner of the Hemlock Cabin. Due to a failure in communication the tabled item was not re-addressed. Meyers stated that due to her inspection of the Hemlock Cabin she found that the awning covering the deck was in fact removed and that the structures that were up for interpretation had been there for years.

Letter sent to 8 property owners within 350 feet of said parcel.

Public notice published April 29, 2010 in the Elk Rapids News.

Background information on the property:

- The cabin was originally built in 1930 with a remodel in 1960.
- The Pines Cottages LTD was created in the late 1980's
- The LTD is a limited liability corporation. There are 11 "owners", each entitled to exclusive rights to a specific cabin.
- Parcel "B" consists of 2.88 acres with 11 cottages, 1 tool shed and 1 garage.
- The cabin has not been maintained or occupied in approximately 10 years.

The department recommends that the ZBA approves the variance request based on the following conclusions:

- The addition results in a zero sum with respect to square footage
- The structural integrity of the structure will be improved – resulting in a safer environment for all in the vicinity hence granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this ordinance.
- The nonconformity exists currently therefore, granting the variances shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.
- The proposal results in an improvement to the existing structure therefore granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.

### **Petitioner Presentation**

Kluck voiced his concern over whether the previous ruling affected the current case. He stated that by fixing the cabin he would help make the area a better, safer place. He stated that the cabin is a mess and that he is not asking for additional square footage on the building.

Questions from the ZBA:

Millar: Are you going to tear the whole thing down and rebuild?

Kluck: No, we are going to fix the foundation and repair the walls and put on new siding.

Benak: Are you going to have a new porch or entryway.

Kluck: No, we are going to use the existing slab on the front of the building.

### **Correspondence**

There was no correspondence for the ZBA

### **Public Speaking in Favor of Appeal**

Sharon Howitt 7845 Cook Rd , Neighbor  
States that she is in favor of this appeal.

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

None

### **Anyone in Attendance Who Wish to Speak on This Appeal**

None

## **Close Public Hearing**

The public hearing was closed at 7:30 p.m.

## **Discussion on Appeal**

Millar: Asked if Meyers is looking at this as falling under Article 4.15?

Meyers: Yes

Millar: I have no problems with what they are proposing to do, only the issue with the previous case on the cabin. Since the last correspondence was December of 2007 it appears to be a dead issue. His main concern is that we are treating people fairly. Things have changed enough that he does not feel he has to be bound by 2007 decision. Does not see how fixing the place up is a public health, safety and welfare issue.

Benak: To let the building sit there as is, it becomes a health, safety, and welfare issue.

Lake: No problem with request if we can go ahead and resolve the issue. By allowing this the area will start to heal from past issues.

Millar: Are you going to use a septic system?

Kluck: Yes

## **Motion**

Motion by Miller, supported by Benak to approve variance request, A2-10, based on Article 4.15 which states “the extension of any nonconforming use or addition to any nonconforming structure for the proposed of extending such nonconforming use or structure throughout all of 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.” Based on the following conclusions:

- The addition results in a zero sum with respect to square footage
- The structural integrity of the structure will be improved-resulting in a safer environment for all in the vicinity hence granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance.
- The nonconformity exists currently therefore, granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.
- The proposal results in an improvement to the existing structure therefore granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.

## **Roll Call**

Benak – Yes; Lake-Yes; Millar-Yes; Miller-Yes;

Motion carried 4-0

## **2) Election of Officers**

Motion by Miller to appoint Todd Millar as Chair and Ken Bowman as Vice Chair , seconded by Lake.

Motion carried unanimously.

## **Zoning Administrator Report**

- New Township Attorneys

## **Adjournment**

Meeting was adjourned at 8:03 p.m.