

**Whitewater Township Zoning Board of Appeals
Minutes of 2/25/10 Regular Meeting**

Call to Order

Millar called meeting to order at 7:00

Roll Call

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

Members Absent: Miller

Also Attending: Planning/Zoning Administrator Meyers,
Recording Secretary MacLean plus seven others

Set/Adjust Agenda

No adjustments to Agenda.

Public Comment – None

Approval of Minutes

Lake motioned for approval, seconded by Bowen, to approve the 12/17/09 Regular Meeting Minutes. **Motion Approved 5-0.**

Business Session:

Item 1:

**Public Hearing on Appeal #A1-10, Terena Winkel; parcel number 13-001-004-02;
11268 Watson Rd.**

Hearing to consider a variance from Article section 6.10, to allow continued use of a travel trailer as a dwelling unit until the permanent home is built and proposal to have a port-o-john be placed on site for sanitary disposal.

Open Public Hearing

Millar opened the public hearing at 7:04.

Zoning Administrator Presentation – report attached.

A formal complaint was received regarding the use of a travel trailer on the property. A violation notice was sent to applicant on January 20, 2010, via certified mail. Ms. Winkel came in within hours of receiving the notice to appeal. Decision to send violation notice based on Article 6.10 (D) which states “Storage of a travel trailer, motor home or other camping vehicle on a parcel of land already containing a single family dwelling provided the same is not used for a dwelling for more than thirty (30) days in any twelve (12) month period and provided that such storage or use shall not be taken on a commercial or rental basis.”

Public notice published February 10, 2010.

Letters sent to 11 owners of property within 350 feet of said parcel.

Background information on the property:

There is not a permanent residence there at this time.

The trailer is there and is being used as living accommodations.

It is a legal, conforming parcel of land.

Original home on the property was demolished in 2008. Terena has done an excellent job of cleaning up the property of approximately 17 acres with a lot of garbage on it.

The one thing that was most important to me is that there is no hook ups for adequate sanitary water and sewage. Primary concern is the health, safety and welfare.

Cannot support the request.

The department recommends that the ZBA deny applicant's request for a variance-
Based on the following conclusions:

- Lack of adequate sanitary facilities located on the site.
- There is no land use permit on file for a new home.
- Reports from neighbors state that the travel trailer has been utilized as a home since at least August of 2009
- Granting the variance would alter the essential character of the area.
- The variance could cause a substantial adverse affect upon adjacent properties as there are not adequate sanitation facilities.
- The variance could impair the public health, safety, comfort or general welfare of the residents of the Township, again, as there are not adequate sanitation facilities and there are no immediate plans for such.

Petitioner Presentation

Terena Winkel: I would like to say that I bought the land and spent numerous amount of money and planned on building a house this past summer or fall and after getting bids for a house that were so extremely high that I figured on waiting another year and start this summer. I didn't plan on staying in the camper but that is just where it led me to be. I've tried to keep the place as clean as possible. Randy from the GT Health Department did stop by and he looked around, everything looked clean. He recommended I get a port-o-john, which I did. As far as water, we use Culligan water. I have a couple letters from neighbors who feel I have done a great job in cleaning up the place to submit for inclusion in the record. (These are duplicates of letters received by Chairperson, Millar, which will be read.) I have removed eight 30 yard dumpsters and one 20 yard dumpster of stuff from that place. Had the house torn down, which was not livable. It was sold to me as livable. It had no plumbing, no running water, holes in the roof, plus. I brought pictures. I bought it in the winter and didn't realize how much junk was on the land until the spring. We love it there, it is our land. We are working on the garage. We put a new roof on that, and are now working on the inside. We continue to work on it.

Questions from the board:

Benak: Where are you dumping your holding tanks?

Winkel: During the summer, we are not, there is a sand pit out back, we dug a three foot hole and we dump it in that and bury it back up. Like if you were out camping.

Benak: So you don't have any grey water right now?

Winkel: What grey water there is, we just dump on the ground.

Millar: You indicated that your intention is to build in the spring.

Winkel: Spring or summer.

Millar: Contractor lined up?

Winkel: I do not, at this time. I talked with contractors and one is still interested in giving me another bid but, first I have to re-do my house plans, maybe some things were a little too expensive on it.

Millar: Do you have any permits in place?

Winkel: I had a well and sewer permit but that has expired.

Millar: How about a building permit?

Winkel: I do not. No.

Millar: Any other questions by the board? Anything else Ms. Winkel would like to say?

Winkel: No

Report on Site Visit

Lake: I stopped over there. It looks quite clean and neat. I think it is a nice camp site.

Halstead: They have cleaned it up real nice.

Correspondence

Millar read three pieces of correspondence (attached). One each from neighboring property owners: Ray and Cathy Denning, Dave and Terry Witt and the Williams Family. All three are in favor of granting the variance.

Public Speaking in favor of Appeal:

Greg Morris, 6248 Skegemog Pt. Rd., Williamsburg, owns 90 acres across the road. Zoning is a great thing. Things like that should not be allowed if you're going to be there full time. But there are circumstances that it should be allowed for 6 months, a year, whatever, especially in this economy. They keep it clean. They've done a lot of work there.

Ron Popp, 6237 Elk View Dr., Williamsburg, owns property to the east of the property in question. I support their claim and I'm sure the board will take into account some items: Can the existing water and septage be used, the one that Mr. Foster used? He lived there for a long time. There must have been something there.

(Millar: answer No)

As far as the structures, specifically the travel trailer and port-a-potty, in regards to property lines and set back. Do they comply?

Is there a funding letter from a bank, lending institution that maybe has a time frame on it for construction? A possible time limit to be considered? As it stands I do support, for at least a year, for use of their property as they see fit. Thank you.

Public Speaking in Opposition of Appeal:

Jeff Winkel, 4291 Lackey Rd., Williamsburg, opposes the appeal being granted. I have three parcels for sale (in the area) and I have turned down numerous offers from people who would like to live in a travel trailer or recreation vehicle because it is against the ordinance and it is not allowed. The main reason is because I have a son who lives in the trailer. They are not made to live in year round. They do not have proper ventilation, proper heat. There is no running water there. There is no sewage there. They go outside all winter to go to the bathroom, no matter how cold it is. They have been in that trailer since April of last year, 10 ½ months. She has a port-a-john there now, that got there some time in the last week or so. There is no running water, no sewage, there is condensation, no proper ventilation. If I didn't have my 12 year old son there I wouldn't care what they want to live in. But because he is my son, I care, and I think you will care. He is taken to places to get a shower a couple times a week but he should have more access than that. When he comes to my house he stinks. This is not where a 12 year old should have. If this were a hardship case, where they could not afford any more, that is not the case. It is not a fit home for a 12 year old.

Response: Terena Winkel: I'm not really sure this matters, but this is my ex-husband who has done nothing but cause me grief since the beginning. It didn't seem to matter too much where Robert lived last summer and fall when he was in jail for five months for shooting a dog. My son does not stink when he leaves my house. He takes a shower on Sunday nights and he actually comes to my house smelling and he tells me his dad does not make him shower, it is his decision to. At least I make him shower and he cleans up every night. Like I said, this is a divorce matter.

Close Public Hearing on Appeal #A1-10 at 7:22 p.m.

Discussion on Appeal:

Lake: I've got to say that I have been on this board for a number of years and it is the first time I have listened to the neighbors so whole heartedly be in favor of this type of thing. We are going to have to search ourselves for what we do. I do want to thank the neighbors for speaking up, even in opposition.

Bowen: I empathize with the situation. I know that times are tough around here. Unfortunately, I don't see the paper work, in terms of permits and obviously, I see that these are good people. I don't see an effort in building the house. Our ordinance is here for a reason and my job is to interpret this ordinance and at the moment I don't see in good faith, that there is a start of anything here.

Benak: As far as the travel trailer is concerned, they are made to live in year round, but normally it is a summer climate that they are living in year round. The condensation issues because of heat we would not really know without getting inside and inspecting, which is not really our job, how would you really know. I can sympathize with the divorce issue and all that it entails. When you look at the permits issue, you cannot really tell us when you actually plan to build, so we could have something to go from. If you had come in and said, we plan to start building in June, we are getting all of our ducks in order, we want to pull these permits, then that would be something for consideration but we don't really have anything to base it on.

Winkel: Doesn't the builder pull the permits? That is what I was told. The one builder said he would pull all of the permits, so I don't know if I am supposed to pull them. I'm not sure who does that.

Millar: The builder usually does, but an owner can.

Bowen: That's when you have contracted with somebody to start getting things going.

Winkel: One builder gave me a price but wouldn't give me any of the paper work. He would not give me any of the quotes or anything. I would have brought them with me.

Benak: Is it a hardship situation? I hate to have to ask that, but if it is a hardship situation, like if you have no other place to live. I know people like to live on the site where their home is being built.

Winkel: It is my land, I like being there. I feel like it is my land. What is there, we have worked so hard for it that I feel like I cannot leave it. I cannot pinpoint anything. I thought I was going to be building last year. I talked with three builders. One builder is still working on other homes. One wouldn't even let me keep a copy of his bids. I would have liked to use for comparison. I've got one from another builder. I should have brought that with me so you can at least see that I have started. I have to redo my plans and I guess I should have, Brown Lumber is going to draw some up for me.

Benak: So you feel like you are going to start this summer.

Winkel: Yes, I would like to have a house. Yes

Millar: The travel trailer, is it still on wheels or is it up on blocks?

Winkel: Still on wheels.

Millar: First of all, thank you for cleaning up the property. We appreciate that and anyone in Whitewater Township should be appreciative of that. So I applaud you for that.

Going to ask my fellow board members (“playing devils advocate here”) How is this different than the appeal that was granted at the last meeting and that we have routinely granted where people want to have two principal structures, where they have an existing structure they want to continue to live in while they build another principal residence, and we have usually granted them a variance, if memory serves me, for a year, while they build the structure. They have a guarantee that they are going to tear down the old one. How is this any different if she agrees that she is going to get rid of the trailer after she has built.

Lake: That’s where I am at odds as to which way to jump here. If we go one way, someone will jump on us for that. If we go the other way, someone will jump on us for that. The last one we had, the building was going to be done, so they wanted to live there while it was being done. This one, she has had prints drawn up and it sounds to me like she wants to be there and she wants to winter in the travel trailer. I would say it sounds like she is going to build in the summer and I would lean toward giving her the one year situation. But as far as how the two compare, the others want to live in the house that is already there. This does not have a structure and we want to wait to see if they will do it next summer. I have a feeling they will do it. The structure that is there is on wheels.

Benak: It is classified as a travel trailer. The other is an actual structure, with indoor plumbing and heat. They already have their contract. They already have their builder. They already have a date for breaking ground. There is more.

Lake: That is the difference there.

Bowen: They have their ducks in a row. There is heat, plumbing and sewage in the existing house that already conforms to all of the regulations, so they could live in that house, period, and not have to do anything. With this one there may be other health issues.

Meyers: My concern was that there is not adequate sanitary facilities available. That could be the difference between the temporary houses and this.

Millar: Does it change your opinion at all that someone from the health department has come out and looked at the property?

Meyers: No

Mr. Winkel: To remind the board that they have been living there 10 ½ months already with no permits pulled, no contracts signed. They have done clean up, that is nice for the neighbors. They have been there for 10 ½ months, there’s nothing done, they’ll be living there for months and months more.

Halstead: ZA Meyers has gone before the Planning Commission to have a variance / allowance for temporary housing and they have said there is no way they want to do that.

Benak: You mean like if there were a fire, someone could bring in a trailer, hook up to the well and septic right there on the property?

Halstead: They can’t do that right now.

Benak: Even if they were able to do that, I would feel better about this. Dumping the grey water out on the ground, they won’t even let you do that at a camp ground.

Winkel: When I talked to Randy at the health department he asked if I would be getting a well and septic in right away in the spring – I agreed, which I had the permit for but has expired.

Millar: As I read the ordinance, it is clear to me that travel trailers do not meet the definition of single family dwellings, which is what we have to pigeon hole this in if we are going to try to get it in under the ordinance without some other interpretation. It just does not meet the definitions or requirements to be a single family dwelling so I don't disagree with that. I understand the comments and concerns being expressed.

If there are no other comments by the board, the chair would be willing to entertain a motion to either grant or deny the variance and the reasons why.

Motion by Bowen to deny variance request, A1-10, based on Article 6.10 (D) which states "Storage of a travel trailer, motor home or other camping vehicle on a parcel of land *already containing a single family dwelling* (emphasis added) provided the same is not used for a dwelling for more than thirty (30) days in any twelve (12) month period and provided that such storage or use shall not be taken on a commercial or rental basis." That it does not meet the definition.

Motion Seconded by Benak.

With no further discussion we will take a roll call vote, with a yes vote being to deny the application for variance.

Millar - Yes
Bowen - Yes
Lake - Yes
Benak - Yes
Halstead - Yes

Motion passes, 5-0, the variance is denied.

Millar stated that Meyers will discuss your options from here.

Noted that this cannot be considered "not self inflicted".

That there is clearly a lack of sanitary facilities, being a health, safety and welfare issue.

There is no land use permit on file for a new home.

Passing the variance could potentially open a huge can of worms for other properties that are for sale that would like to do the same thing.

Item 2:

Resolution 10-01: 2010 – 2011 Meeting Schedule

Changed meeting schedule to the third Tuesday of every month.

Motion by Benak to approve meeting schedule, seconded by Halstead.

Roll call vote:
Bowen – Yes
Lake – Yes
Benak – yes
Halstead – Yes
Millar – Yes

Motion passes 5 – 0

Meyers informed the Board that there is nothing scheduled for March and today is the deadline.

Discussion: In the times we are in right now, these folks are both working, do we need to think a little differently than in the past?

If they had put the well and septic in, it would have made a difference.

This didn't have anything to do with their personal situation. They had been there for nearly a year and they did not have anything started, no permits, not anything.

This is not always an easy job. It is especially difficult when they have done so much work on the property.

They could have gotten a septic and well in before winter.

This is definitely a self inflicted situation.

If anyone has a problem with the way these things are going they need to show up at the meetings and put their two cents worth in. New master plan is being created right now. Right now is the opportunity to get involved. People cannot sit on the side lines and hope someone else does it.

The previous temporary structure situations have been where they want to keep / live in the existing home while building a new one.

What is going to the Planning Commission this next week will be for both types of temporary structures, where well and septic is available.

There will no change in officers of the ZBA.

Meyers appreciates the electronic submission of board packets.

With no other matters to discuss, Millar adjourns the meeting at 7:48 p.m.

Respectfully submitted by
Lois MacLean
Recording Secretary