

**D R A F T**  
**Whitewater Township Zoning Board of Appeals**  
**Minutes of 6/15/10 Regular Meeting**

**Call to Order**

Millar called meeting to order at 7:00

**Roll Call**

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

Members Absent: None

Also Attending: Planning/Zoning Administrator Assistant Akers,  
Recording Secretary MacLean plus four others

**Set/Adjust Agenda**

Millar, add to agenda after the Zoning Administrator Report discussion on petitioners option to postpone.

**Public Comment – None**

**Approval of Minutes**

Benak motioned for approval, seconded by Lake, to approve the 5/18/10 Regular Meeting Minutes.

**Motion Approved 5-0.**

**Business Session:**

Item 1:

**Public Hearing on Appeal #A3-10, Sarah Thomson, parcel number 28-13-310-006-00;  
11268 Watson Rd, Williamsburg, Michigan.**

Hearing to consider a variance from Article XII – Building sizes and Yard Requirements, to allow the placement of a 24' x 24' accessory structure 0' from the road right of way. This request is due to wetlands being present on the property.

**Open Public Hearing**

Millar opened the public hearing at 7:03.

**Zoning Administrator Presentation – report attached.**

Notice of Public Hearing posted May 27, 2010.

Letters of notification sent to 13 owners of property within 350 feet of said parcel.

Background information on the property:

This parcel is part of the Clear Water Beach Subdivision along the southern edge of Elk Lake.

The parcel is zoned R-1 Residential.

The parcel has a lake front lot and a back lot across from Miami Beach Road.

Lot 6 (this parcel) consists of 5.14 acres with one residential building located on the lake front lot.

The cottage was built in 1966.

The cottage and proposed structure are not in the floodplain.

There are wetlands present on the back lot of the property.

The wetlands on the property are regulated by the DNRE.

Zoning Department Findings:

Applicant wishes to place an accessory building 0' from the road right of way in order to avoid the wetlands that are on the property. All other setback requirements are met.

Zoning Ordinance Article XII state that the front yard setback in the R-1 Residential District is 30'.

The Department feels that the back lot of the property cannot be utilized without this variance. An accessory structure is a permitted use in R-1 district. The Drain Commissioners Office requires a 25' setback from the wetland. The Drain Commissioner can grant a waiver from their requirements provided that the storm water discharge passes through 25' of soil and that no contaminants encroach on the wetland.

Strategies for the prevention of storm water and contaminants entering the wetland are discussed in the Uniform Storm Water Control Design and Installation Standards For Municipalities in Grand Traverse County.

A similar case on Miami Beach Road has been heard on two separate occasions. Zoning Board of Appeals cases A04-01 and A05-01 each dealt with the placement of accessory structures on the “back lot” that requested a front yard variance due to presence of wetlands. A letter from the Drain Commissioner recommended that the structures be set back 5’ from the wetland. Both variances were approved.

The Department recommends **approval** of the request for a variance contingent upon modification of the application specifically involving: the accessory structure be placed 5’ from the wetlands resulting in a 10’ front yard setback to allow space to move around the building and allow for a more stable foundation.

The decision has been made based on the following conclusions:

1. Granting the variance will not be contrary the public interest nor the spirit and intent of the ordinance.
2. Granting the variance will not cause any significant adverse effect to property in the vicinity.
3. There are practical difficulties on the site (wetlands).
4. The requested variance is the minimum necessary variance.
5. The practical difficulty is not self created.
6. The resulting 35’ from the structure to edge of the road will be sufficient for the parking of an automobile in the driveway if necessary.
7. The resulting distance from the wetland will allow enough distance to prevent the encroachment of storm water and contaminants into the wetland thus protecting the health and welfare of the surrounding areas.

Zoning department is suggesting a 20’ variance rather than the requested 30’ variance.

Discussion regarding the placement of the accessory structures on adjacent and nearby lots and the edge of the road vs. the road right of way.

#### **Petitioner Presentation**

Michael Maten, builder, representative for Sarah Thomson. Requesting a 0’ set back variance due to difficulty in dealing with the wetland.

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

Lake, I don’t see why it wouldn’t work where the stakes are currently set.  
Discussion on where the structures are that are on the neighboring properties.

#### **Correspondence**

None.

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

Frank Letherby, owner of 10037 Miami Beach Road, is supportive of the request. Would like to see uniformity in placement of the structure. Keeping it aligned with the current structures that are on the neighboring lots.

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

None.

#### **Close Public Hearing on Appeal #A3-10 at 7:20 p.m.**

#### **Discussion on Appeal:**

Discussion on wording to align the structure with current structures, dealing with aesthetics.

The wetland is not straight.

Discussion on possible 5’ set back, compromise, gives a little more room off the road and road right of way, allowing for snow removal. This is a dead end, private road that does not get a lot of traffic and no

high speed traffic. This is not self created. Drain commission approves the 5' foot distance from the wetland so long as there is the appropriate, necessary drainage. These types of variances have been approved on these small lots before.

Millar: The request is for 0' set back. We can approve, deny or approve something different (a compromise) that the property owner can live with.

Motion by Benak to approve a 25' variance to Article XII, to allow the accessory structure to be 10' from the wetland and 5' from the road right of way, seconded by Miller.

Roll call vote, a yes vote will be in favor of granting the 25' variance:

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

**Zoning Administrator Report: Attached**

**Added Item:** We have had an informal policy regarding a petitioner's option to postpone without a full board. Would like to make it official that when it is known that there is not going to be a full board available for an appeal that we authorize Leslie to contact the petitioner/applicant, as a professional courtesy, as soon as it is known that there will not be a full board available and that they can postpone until the next meeting. Make it part of the ZBA by-laws / rules.

With no other matters to discuss, Millar adjourns the meeting at 7:42 p.m.

Respectfully submitted by  
Lois MacLean  
Recording Secretary