

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
Minutes for Regular Meeting on Thursday, February 22, 2024
7:00 p.m. at the Whitewater Township Hall
5777 Vinton Road, Williamsburg, MI 49690
Phone 231-267-5141/Fax 231-267-9020

Call to Order by Chair at 7:00 p.m.

Roll Call: Bowen, Lake, Garza, Wroubel

No alternate to the ZBA, Board Representative-unassigned

Four on zoom at the beginning of the meeting

Set/Adjust Agenda - Set

Declaration of Conflict of Interest - None

Public Comment –

Begin: 7:03 p.m.

Denise Pelton

Vicki Beam

Connie Hymore

Vicki Beam

End: 7:12 p.m.

Approval of Minutes:

MOTION by Bown, second by Wroubel , to approve minutes of August 24, 2023.

Roll call: Bowen-yes; Lake-yes; Garza-no; Wroubel-yes. Motion carried.

Scheduled Public Hearings:

Case 1:

#ZBA-2023-04

a. Open Public Hearing on Appeal #ZBA-2023-04 at 7:15 p.m.

Parcel Id: 28-13-110-002-01, 10400 Orchard Lane, Williamsburg, Michigan

Applicant/Owners: Marc and Lorraine Wistrand requesting a dimensional variance from the 30' rear yard setback as required in Article XII, Schedule of Regulations in order to permit an encroachment of approximately 20'.

Public hearing notice was posted in the Record Eagle on February 4, 2024, and notices were sent to property owners within 300' of the subject property at least 15 days prior to the public hearing.

b. Zoning Administrator Presentation: In addition to the report in packet, Hall notes: In 2017 the next-door neighbor got a very similar variance. Orchard Lane is a private easement that splits the properties and makes for two front yard setbacks.

c. Petitioner Presentation: In addition to the information provided in the packet: Marc Wistrand passed out pictures with some explanation. Drainage basins have been placed by Avery Construction. Septic and drainage take up the area on the other side of the road, the east side of the road. The neighbor property was approved at 5' from the property line. Wistrand is asking for an approval for 10' from the property line.

d. Report on Site Visits:

Bowen did do a site visit. It looks like it is in line with the rest of the properties.

Lake looks like there is room there. Looks like it aligns with the other properties.

Wroubel the owner of the property being encroached upon does not have a problem with it.

Garza notes property line to the fence is five feet, the neighbor is good with it.

e. Correspondence none

- f. Public Speaking in Favor of Appeal: None
- g. Public Speaking in Opposition to Appeal: None
- h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented: None
- i. Close Public Hearing on Appeal #ZBA-2023-04 at 7:42 p.m.
- j. Discussion: The drain field on the east side of the road keeps the building from being able to be put there.
 Allowing the variance will also allow for the building to be set back further from the road and in line with the other building.
 Can request it line up with the neighbor.
- k. Findings of Fact:
 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. yes
 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. yes
 3. Granting the variance will not cause any significant adverse effect on the property in the vicinity or the zoning district or the Township. yes
 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 is not resulting from any act of the applicant. yes
 5. The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by 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 and welfare. yes
 6. The requested variance is the minimum necessary to permit reasonable use of the land. yes
 7. The practical difficulty is not self-created. yes
- l. Decision: Grant the request.
- m. MOTION by Garza, second by Bowen to grant Appeal #ZBA-2023-04, the dimensional variance as requested based on the stated findings of fact.
 Roll call vote: Lake – yes; Garza – yes; Wroubel –yes ; Bowen – yes. Motion carried.

Case 2:

#ZBA-2023-05

- a. Open Public Hearing on Appeal #ZBA-2023-05 at 7:54 p.m.
 Parcel Id: 28-13-630-025-10, 400 Island View Dr., Traverse City, Michigan
 Applicant/Owners: Kirk Vuillemot requesting a use variance to build a residential accessory structure without a principal use being established.
 Public hearing notice was posted in the Record Eagle on February 4, 2024, and notices were sent to property owners within 300' of the subject property at least 15 days prior to the public hearing.
- b. Zoning Administrator Presentation: In addition to the report in packet, Hall notes: Written correspondence was received in favor of the requested variance.
 Consider that the lot is considerably small, about 5000 square feet. Applicant owns the island and would like to be able to have a place to store items and access the lake to access the island. Rather than a road

splitting their property they have the water that splits their property but this is considered two separate lots, which is unlike a road splitting the property which makes the lots connected and combinable and considered contiguous.

c. Petitioner Presentation: In addition to the information provided in the packet Mr. Vuillemot notes that the placement is such so the neighboring lake owners can continue to use the two-track lake access that is on their property. Keeping the building to a minimum for their vehicle and some small items. The old structures have been there since 1982. Wants to take the old structure down. Mr. Mater notes that the property is used for lake access by the other members of the private lake so they can monitor and keep invasive species out. There is drainage on the property.

d. Report on Site Visits: Bowen notes the water isn't like a road splitting the lots so they are not considered contiguous. Wroubel notes that it is a small lot, it does not look like it would qualify to have a house built on it. Seems to fit the use and area.

e. Correspondence in the packet.

f. Public Speaking in Favor of Appeal: John Mater, 464 Island View Dr., this variance meets every one of the four requirements. We are very much in favor. Will not obstruct any view. There is no official Home Owners Association, there is no jurisdiction of the association to make any requirements. There is an active eagle nest on the island.

Peter Swartz, 398 Island View Dr., lot 33, neighbors are in favor of approval of the variance.

Mark Mater, 428 Island View Dr., lot 27, no objection, they meet the criteria.

g. Public Speaking in Opposition to Appeal: None

h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented: None

i. Close Public Hearing on Appeal #ZBA-2023-05 at 8:29 p.m.

j. Discussion: There are two sheds the smaller one is closer to the water. The larger shed will be removed.

Wroubel indicated he has no problem with it.

Lake noted that the neighbor does not mind it being closer because of the boat launch for the rest of the owners.

Garza noted the rule is that there must be a principal residence before an auxiliary building maybe put in. Questioned the side yard setback.

Wroubel it cannot be used for a house. The building envelope is there but does the land accommodate? Are there other things that cause the problem? Would it be practical?

Wroubel and Garza note that the 15' setback can be met on each side.

Vuillemot notes that they would prefer to not move more land than would need to be done to move it over. The new building would go over where the current building is. Hoping to retain the drainage. This property is used as their easement to the property, the island.

k. Findings of Fact:

1. The property cannot be reasonably used for any purpose permitted in the zoning district without a variance. yes
2. The need for the variance is due to unique circumstances particular to the property and not generally applicable in the are or to other properties in the same zoning district. yes

3. The problem and resulting need of the variance has not been self-created by the applicant and/or the applicant's predecessors. yes
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 and pattern of land uses in the area and natural characteristics of the site and the surrounding area will be considered. yes

l. Decision: Grant the request.

m. MOTION by Wroubel, second by Lake to grant Appeal #ZBA-2023-05, for a use variance based on the stated findings of fact.

Discussion: Bowen would like the 15' set back and the old buildings being demolished.

Update the MOTION by Wroubel, second by Lake to grant the Appeal #ZBA-2023-05 for the use variance based on the stated findings of fact including the 15' side setback to be met and removal of both of the sheds when the building is complete.

Roll call vote: Garza –yes ; Wroubel - yes ; Lake – yes; Bowen – yes . Motion carried.

Case 3:

#ZBA-2024-01

a. Open Public Hearing on Appeal #ZBA-2024-01 at 8:57 p.m.

Parcel Id: 28-13-310-009-00, 10113 Miami Beach Road, Williamsburg, Michigan

Applicant/Owners: Jean Schultz and Michael Johnston requesting a dimensional variance from the 15' side yard setback as required in Article XII, Schedule of Regulations in order to permit an encroachment of approximately 7'.

Public hearing notice was posted in the Record Eagle on February 4, 2024, and notices were sent to property owners within 300' of the subject property at least 15 days prior to the public hearing.

b. Zoning Administrator Presentation: In addition to the report in packet, Hall notes: Correspondence received in approval of the variance.

Hall indicates that he has had lots of conversation with the petitioners.

Existing house in an established subdivision where the garage encroaches into the side yard setback.

Petitioners wish to demolish and rebuild what is there.

c. Petitioner Presentation: In addition to the information provided in the packet: Carrie Peterson representing the owners indicated that they want to maintain the same footprint of the one-story garage.

d. Report on Site Visits:

Bowen notes that if the house is being demolished the setbacks should be met.

Lake notes that other buildings are very similar. In favor of their variance request.

Wroubel looked at the other houses and this is pretty much the same. Is this similar to previous ZBA cases?

Garza notes that he did a site visit. The neighbors don't conform on either side.

e. Correspondence None

ZA Hall noted that a 2018 ZBA case was approved on another property.

Lake notes that a lot of variances have been granted.

f. Public Speaking in Favor of Appeal: Uriah Peterson, representing Jean and Mike would like the home to be in the same space that it is. Adding to the community value by building a new home on the same footprint.

- g. Public Speaking in Opposition to Appeal: Vicki Beam, audio difficulties via zoom. Decision by the ZBA to continue without the audio.
- h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented: None
Zoom participants can hear us. They are not heard in the township hall.
- i. Close Public Hearing on Appeal #ZBA-2024-01 at 9:24 p.m.
- j. Discussion: Wroubel notes that he had to make multiple changes to house design plans to meet requirements. The requirements can be met starting from a blank slate to bring it back into conformity. Bowen indicates they should be able to follow the setbacks. Garza feels the same way.
- k. Findings of Fact:
 1. Granting the variance will be contrary to the public interest and will not be contrary to the spirit and intent of the Ordinance. 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. yes
 3. Granting the variance will not cause any significant adverse effect to the property in the vicinity or in the zoning district or the Township. yes
 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 is not resulting from any act of the applicant. 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 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 and welfare. yes
 6. The requested variance is the minimum necessary to permit reasonable use of the land. no
 7. The practical difficulty is not self-created. yes
- l. Decision: Grant deny the request.
- m. **MOTION** by Bowen, second by Wroubel to not grant the Appeal #ZBA-2024-01, for a dimensional variance based on the stated findings of fact – there are not practical difficulties and it is not the minimum necessary to meet reasonable use of the land.
Roll call vote: Wroubel-yes ; Lake -no ; Garza – yes; Bowen – yes. Motion carried.

Other Matters to be reviewed by the Zoning Board of Appeals

- a. Correspondence Received no additional correspondence
- b. Resolution ZBA 24-01, 2024/2025 Meeting Schedule
MOTION by Bowen, second by Lake to adopt Resolution ZBA 24-01, 2024/2025 Meeting Schedule.
Roll call: Wroubel-yes; Garza-yes; Bowen-yes; Lake-yes. Motion carried.
- c. Election of Officers
MOTION by Bowen, second by Wroubel to leave the slate of officers as currently set with Bowen as Chair, Garza as Vice Chair and Lake as Secretary.
Roll call: Bowen-yes; Lake-yes; Wroubel-yes; Garza-yes. Motion carried.
- d. Review Bylaws
MOTION by Bowen , second by Wroubel to leave the Bylaws the way they are currently.
Roll call: Garza-yes; Lake-yes; Wroubel-yes; Bowen-yes. Motion carried.

- e. ZBA member comments: Lake requests that the measurements and pictures need to be more readable.

Report of Planning Commission Representative, Wroubel: PC is making progress on the Master Plan. Have a meeting in two weeks. The Chair is resigning mid-March.

Report of Township Board Representative, Unassigned: Not available

Report of Zoning Administrator, Hall: What the PC is doing on the Master Plan is excellent. It is thoughtful with community involvement. The township officially adopts it and the plan is implemented by the zoning. Bob will try to keep it in mind to make the maps and drawings more legible.

Findings of fact should be more complete.

Bylaws are also called Rules of Procedure for the ZBA

Meetings are scheduled as needed. If there is no business there is no need to meet.

Public Comment:

Begin: 9:55 p.m.

Vicki Beam from zoom via audio on Vollmuth phone

Connie Hymore from zoom via audio on Vollmuth phone

Heidi Vollmuth

End: 10:04 p.m.

Adjournment: 10:05p.m. Signing of the Variance Decision Certification Forms

Respectfully submitted,
Recording Secretary
Lois MacLean