

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING March 28, 2019
5777 Vinton Road, Williamsburg, Michigan

Call to order by Chair at 7:04 p.m.

Roll Call: Benak, Bowen, Halstead, Lake, Alternate Shaffer, Alternate Garza

Absent: Hooper

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 January 24, 2019, by Benak, second by Bowen. On voice vote, all in favor.

Motion carried.

Scheduled Public Hearing:

A. Public Hearing on Appeal #19-002. Robert & Christine Jurs (on behalf of Catherine Alfred) are requesting a use variance for 8212 Okaiyoka Road, Williamsburg, Michigan.

Parcel #28-13-122-015-00. Parcel is in the R-1 Zoning District.

a. Open Public Hearing on Appeal #19-002 at 7:07 p.m. for Robert & Christine Jurs (on behalf of Catherine Alfred), parcel #28-13-122-015-00 at 8212 Okaiyoka Road, Williamsburg, Michigan. Requesting a use variance of The Jurs are requesting **a variance to construct a 160 sq.ft. addition to a nonconforming structure** in the Residential R-1 Zoning District.

b. Zoning Administrator Presentation: The legal notice of public hearing was posted in the Record Eagle March 10, 2019. Notices were also sent out to eleven property owners within 300 ft. of the property. Summary of staff report: There are multiple livable units on one lot in the R-1 District. This would be an addition to a cottage built in 1962. They would expand the unit by 160 sq. ft. to add a small kitchen and bathroom. The unit would be built to current ADA code. These are family units, not rented to the public.

This is a request to grant variance to Article 6, section 6.10 Uses Permitted in the Residential R-1 District.

Other applicable zoning ordinance sections:

Article IV, section 4.15 Extension of Nonconforming Use or Structure

Article III Definitions

Article XV Sanitation Requirements, Section 15.10 County Health Ordinance

The addition would bring the building further into compliance by increasing the size by 160 sq. ft.

A land division is not a solution as it would create a parcel that exceeds the width to depth ratio.

c. Petitioner Presentation: Robert & Christine Jurs of 20816 Beaconsfield Blvd., Rocky River, Ohio, on behalf of property owner, Catherine Alfred 3765-2 Lander Rd., Chargin Falls, Ohio: Was notified by a previous zoning administrator that the septic and well would need to be upgraded before anything could be done. That has been completed.

They are on their fifth generation of family coming up here. These cabins are never rented out.

d. Report on Site visits: Bowen: Gorgeous property.

Lake: One small tree will have to come out. Looks like a nice place for an addition.

Benak: Secluded and very nice.

Jurs: Looking to possibly use helical piers for the base which doesn't require as much disruption of the property and environment. Roofs have been completed in the last couple years. Leaving as much of the original building as possible.

- e. Correspondence: Haggard Plumbing and Heating has no problem with granting the variance. Correspondence in favor of the variance by several neighbors: Coggeshall of 8126 Okaiyoka Rd., Wishart of 8234 Okaiyoka Rd., Adams of Okaiyoka Rd., Levine of Okaiyoka Rd., Graves of Okaiyoka Rd. Verbal correspondence was just wondering if the association had reviewed the plan – neither for or against.
- 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 #19-002 at 7:30 p.m.
- j. Discussion of appeal: We would normally like nonconformities go away, however these cottages were built long before there were zoning ordinances. They are actually bringing it closer to compliance. The septic and well upgrades are a plus.
The owner of the property will no longer be able to use the property without the upgrades.
Looks like they have used good judgment in the work they have already done.
- k. Findings of Fact:

Use Variance. The Zoning Board of Appeals may grant a use variance only upon finding that an **unnecessary hardship** exists. A use variance is a variance that permits a use that is otherwise prohibited in a zoning district.

To obtain a use variance a finding of an unnecessary hardship shall require demonstration by the applicant of the following:

- 1. The property cannot be reasonably used for any purpose permitted in the zoning district without the variance.**

The nonconforming use on the property is a use that was legal at the time it was created but which has since become impermissible because of subsequent modification of adoption of the zoning ordinance in 1972. The applicant states the variance would allow relatives of all ages to utilize the property.

To be determined by the Zoning Board of Appeals. YES xxxxx NO _____

- 2. The need for the variance is due to unique circumstances particular to the property and not generally applicable in the area or to others properties in the same zoning district.**

The applicant states the property was purchased in 1932, along with 8 colleagues. There have been several additions (3 cabins, pole barn, clay tennis court) that have taken place over the years that are particular to this property before current zoning came into effect.

To be determined by the Zoning Board of Appeals. YES xxxxx NO _____

3. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

As stated, the property was purchased in 1932, along with 8 colleagues. There have been several additions (3 cabins, pole barn, clay tennis court) that have taken place over the years. There is no sanitary waste disposal (bathroom) in the unit requesting to be altered. The property card contains a quit-claim deed to Catherine Alfred (current property owner) on January 7th, 1975. Sanitation requirements in the current ordinance did not come into effect until July 28, 2017.

Article XV Sanitation Requirements, Section 15.10 County Health Ordinance

Compliance shall be had in all land uses and in all structures erected, altered, or moved upon a premise with all provisions of the County Health Ordinance in force in the Grand Traverse County entitled "Sanitary Code of Minimum Standards Regulating Sewage Disposal, Water Supplies, and Sanitation of Habitable Buildings in Grand Traverse County Michigan" as the same may be amended from time to time, and violation of any provision of that Ordinance shall constitute a violation of this Ordinance. Granting the requested variance would bring the property/structures into compliance with Grand Traverse County Health Codes/this Ordinance; as well as ADA building code(s) for aging owner.

To be determined by the Zoning Board of Appeals. YES xxxxx NO _____

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 of pattern of land uses in the area and the natural characteristic of the site and surrounding area will be considered.

This indicates that if approved, the variance will not depreciate the neighborhood- 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. As Zoning Administrator, it is my belief that the removal of the porta-potty will enhance the neighborhood, and prevent a possible nuisance per say that could result in the odor from the raw sewage. If the porta-potty were to leak it would have negative impacts on the environment/water quality (Section 2.10(6) purpose of Ordinance to protect water quality).

To be determined by the Zoning Board of Appeals. YES xxxxx NO _____

Determining the answers to the four (4) review standards should give us a well-supported foundation in regards to approving or denying the requested variance.

Based on the four questions.

As a group we seem to be in consensus that the use variance would be appropriate for this property, for this building.

Can we grant them the use variance for up to 700 sq. ft.? That way the minimum sq. ft. requirement would be met making it one less thing that is out of compliance. Could grant with a minimum of 160 sq. ft. addition up 512 sq. ft. addition to bring it into full compliance on two of the three noncompliances..

- l. Conclusion: Grant the variance .
- m. Reasons for Conclusion: .
- n. Based on the findings of fact as presented.

- o. Decision: Approve the variance.
- p. Motion by Bowen, second by Benak to grant the request for a use variance to construct an addition of a minimum of 160 sq.ft. up to an additional 532 sq. ft. to an existing nonconforming structure on the ZBA Appeal #19-002.
Roll call vote: Bowen-Yes; Halstead-Yes; Hooper-NA; Benak-Yes; Shaffer-Yes; Lake-Yes; Garza-Yes.
Motion carried.

Other Matters to be Reviewed by the Zoning Board of Appeals:

1. Correspondence Received - None

Planning Commission Representative report: Hooper: NA.

Township Board Representative report: Benak: Have been very busy with the budget.

Supervisor Popp has been off on sick leave for a month.

Event Barn survey has been completed and will go out with the spring newsletter.

Working on an update to the Whitewater Township Park. Ideas to upgrade the boat launch, parking, drives, beach, playground, etc. It will be done in phases. The Park is self-funded and we will be applying for grants. The plan is that no general funds will be used.

The Planning Commission will be given laptop computers to address any possible FOIA issues that could arise.

Clean up day is set for June 8 at the school.

The Fire Department has put out a bid for a new pumper tanker. The money has been saved for this.

Bios and head shots for the spring newsletter.

Zoning Administrator report: There will be a ZBA meeting in April.

Updating forms and applications in the zoning department.

Researching the 5 acre minimum.

Meeting people as they come in.

Basic office cleaning.

Working to get our files digitized.

Recodification is still being worked on via the PC and the Board.

Decision form and Resolution signed by all present members.

Next regularly scheduled meeting will be April 25, 2019, if it is necessary.

Adjourned at 8:16 p.m.

Respectfully submitted by
Recording Secretary
Lois MacLean