

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING OF July 23, 2015
5777 Vinton Road, Williamsburg, Michigan

Call to order by Chair at 7 p.m.

Roll Call: Bowen, Benak, Halstead, Lake, Lyons

Also in attendance: Recording Secretary-MacLean; ZA, Josh Vey

Set / Adjust Agenda: Set

Approval of Minutes: 4/23/2015, Motion by Lyons, second by Benak to approve minutes. All in Favor. Motion Carried.

Scheduled Public Hearing:

A. A-15-003

- a. Open Public Hearing on Appeal #A-15-003, at 7:05 p.m., BC Management, with Brett Campbell, PO Box 1932, Traverse City, MI 49685. Seeking a variance from Article 10.10 (A) and 12.11 of the Whitewater Township Zoning Ordinance. Specifically, the applicant is requesting a variance from the required forty thousand (40,000) sq. ft. minimum lot size. Parcel ID 28-13-136-013-10, 6488 Skegemog Point Road and 11055 M72 East, Traverse City.
- b. Petitioners Presentation Brett Campbell owner of BC Management. Looking to split one parcel into two. Attended meeting in April and at the time it ended with a conditional approval. Have received approval from MDOT for the Skegemog Pt. Rd driveway. The M72 driveway is okay. Driveway of Parcel A (Skegemog Point Rd. home) to be moved 15 feet north. A separate well is needed or the M72 home (Parcel B) and that has been approved. Both projects are ready to go if this is approved. Parcel B has a three bedroom home with finished basement.
- c. Report on Site visit: Members note: Site visits were done previously. The well and driveway were the only two issues that needed to be addressed. The home on this nonconforming piece of property will not be able to be added on. Would the property perk? Yes, from GTC.
Parcel A = 40,000 sf, B = 33,733 sf.
- d. Correspondence One call received by Supervisor Popp from Leah Ritchie expressing concern that if the request is granted it would set a precedent in the township establishing smaller parcels than required by the Township Zoning Ordinance. She is against the request.
- e. Public speaking in favor of appeal None.
- f. Public speaking in opposition of appeal Dr. Leah Ritchie, 4537 Comanche, Okemos, MI 48864, owns 90 acres of property contiguous to the property. Finds it curious that this board would offer conditional approval. Have lived here for 73 years. What do we value most about this area? It is a green area. Growing urban sprawl can destroy an area. Keep in mind what we value and support. Questions. Concerned about the precedent this will make. 73,733 sf, house A has 40,000, lot B is 30% under the required amount (note: the 6267 sf difference is actually 15% lower). If you look closely the plat extends out into Skegemog Point Road because when the road was developed the owner across the road moved the road stakes. House A does not have 40,000 useable sf. House B started as a storage building. Without the knowledge of the township the storage building morphed into a house. When M72 was straightened it created a triangular parcel. With that background, there is concern that there is wetland near and included in the parcel. Is there concern if there is a septic failure? Does the township create a liability for itself if it approves a variance if there is not adequate resources to correct a failed system? The LeLitos (prior owners) applied for a variance and was denied and then lost the property to foreclosure. If this variance is granted could the LeLitos take the township to court because

the variance was denied and a second variance given? Does this set a precedence and/or does this set the township up for a suit? Is there enough landscape to adequately service the septic? Potential liability that this precedent would set. We have a beautiful place to live. Thank you for your time.

Brett Campbell Response: Don't know if the stakes were moved when the road was put in. The survey was done in the last six months. There are no current septic issues.

Leah: In the survey Skegemog point road is beyond the center.

- g. Anyone wishing to speak on the appeal None.
- h. Close Public Hearing on Appeal #A-15-003 at 7:28 p.m.
- i. Discussion of appeal As discussed at the April meeting the property was made non-conforming by Whitewater Township and Grand Traverse County (GTC). It is currently non-conforming. This would create one conforming and one non-conforming. At 33,733 sf it is still larger than residential and lake front properties. As far as septic system if it went bad they would have to go to pumping or a holding tank. The storage building was built for a real estate office and they were not able to get a permit. Safety was thought to be a concern however, MDOT has approved the driveway on M72. In 2011 the township had the Zoning Ordinance in place. It was purchased with 2 houses, so it has not changed. It was this way when he purchased it. Is this self created? self imposed? Having hard time saying it is not. GTC approved it to turn it into a home. It should have been split at that time. We are addressing something that should have been done previously. The township should have demanded it be split previously. Health, safety and welfare are not a problem. The septic systems are already there and being used. Make sure the well gets drilled and the driveway gets moved. It will have to be followed up by the Zoning Administrator. Get the drive and well taken care of in a reasonable amount of time before the split can be done. Is it creating an unnecessary hardship? It is stopping a future hardship?
- j. Findings of Fact: From the minutes from April 23, 2015. Practical difficulty for the owner; special unique conditions; unique circumstances due to M72; literal interpretation of this ordinance would deprive this owner the basic privileges awarded other property owners; granting the minimum variance necessary; not self-created by applicant; does not alter the essential character of the area; not injurious to other owners around; no health, safety or welfare issues; granting would do substantial justice to the land owner.
- k. Conclusion: Bowen still sees it as it could be interpreted as self-inflicted. Physically nothing will change and may be safer with the drive change. It is noted that the Planning Commission will be looking into lot sizes in the future.
This issue was made prior to this situation when the county allowed it be a home it became non-conforming. This requires the driveway and well be completed.
- l. Decision: Grant the variance to allow the split contingent upon completion of the Skegemog Point Road drive and the additional well within 6 months, if not completed, variance is null and void.
- m. Motion by Lake in favor of the appeal to grant the Variance to allow the split based on the findings of fact contingent upon completion of the drive and well within six months, if not completed, variance is null and void, second by Lyons.
Roll call vote: Lyons-yes; Benak-yes; Halstead-yes; Lake-yes; Bowen-yes. Motion carried.

Other matters to be review

No correspondence received.

Annual Review of ZBA By-Laws:

Agenda format to be updated. Change by-laws to indicate the ZA and the Chair work together to create the agenda.

Recess for 5 minutes.

Add the Pledge of Allegiance and a Declaration of Conflict of Interest to the agenda format.

Add ZA Presentation to agenda.

Mandatory meeting in January to do resolution for meetings, selection of officers and review of by-laws.

Members will contact the Zoning Administrator if going to be absent.

Motion to approve the Whitewater Township Zoning Board of Appeals By-Laws as amended by Lake second by Lyons. Roll call vote Benak-yes; Halstead-yes; Lake-yes; Bowen-yes; Lyons-yes. Motion carries.

ZBA officers:

Motion for Bowen to continue as Chair by Benak, second by Lake. All in Favor. Motion carried.

Motion for Halstead to continue as Vice Chair by Benak, second by Lyons. All in favor. Motion carried.

Motion for Lake to continue as Secretary by Bowen, second by Lyons. All in favor. Motion carried.

Planning Commission Rep report, Lyons: Working on the application for permits to have a standard application.

Township Board Rep report, Benak: Possibly outsourcing the ambulance service due to excessive amounts of overtime having 24/7 service. Fire department, Rural Fire is in an upheaval at the present. We have a lot of items that are on hold on the Board agenda.

Next meeting August 27, 2015, if needed.

Adjourned at 9:26 p.m.

Respectfully submitted by
Recording Secretary
Lois MacLean