

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS

Minutes for Regular Meeting on Thursday, August 25, 2022

**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

Alternate-Shaffer, not available; Board Representative-unassigned

Set/Adjust Agenda - Set

Declaration of Conflict of Interest - None

Public Comment - None

Approval of Minutes:

MOTION by Lake, second by Wroubel, to approve minutes of January 27, 2022.

Roll call:

Scheduled Public Hearings:

Appeal #ZBA-2022-01. Parcel id: 28-13-122-019-00, parcel address: 8094 Okaiyoka Road, Williamsburg, MI 49690.

a. Open Public Hearing on Appeal #ZBA-2022-01 at 7:07 p.m.

Owners/Applicants, Virginia & Sally Compere, 10726 Glen Acres Dr. S., Seattle WA 92168 and Robert & Leslie Compere, 1931 Briarcliffe Blvd., Wheaton, IL 60189, are requesting an extension of nonconforming use/structure.

Public hearing was posted in the Record Eagle on August 7, 2022, and notices were sent to property owners within 300' of the property subject to this public hearing, August 5, 2022.

b. Zoning Administrator Presentation: Hall, Two correspondence letters received in favor. Two similar requests are being addressed at this meeting.

Article 4 is all the direction on handling nonconforming use/structure.

The shed/cabin has fallen into disrepair. Their goal is to put in a new, safe building and bring it into the property setbacks as required in zoning.

c. Petitioner Presentation, Bob Compere indicated that the property has been in the family for 90 years. Cabins built in the 1930's. Very close to the property line. Proposed to move it inside of the setback and replace with a new building. They will not want to build in the setback so keeping it 15' from the property line is in the plan. They want to stay back from the creek.

d. Report on Site Visit: Lake and Bowen note that they want to save their trees if possible and they will need to move the building to stop the wetness/rot.

e. Correspondence: Two letters of approval received.

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-2022-01 at 7:25 pm.

j. Discussion:

k. Findings of Fact:

1. Granting the extension of nonconformity will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance. Consensus - yes
2. Granting the extension of nonconformity shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district. Consensus - yes
3. Granting the extension of nonconformity will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township. Consensus - 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. Consensus - yes
5. The extension of nonconformity 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. Consensus – yes because the new structure will be similarly sized, new usable, up to code and conforms to current building and public health codes.
6. The extension request is required as the current structure is nonconforming and the Whitewater Township Ordinance requires the ZBA to approve any changes to nonconforming uses/structures. Consensus-yes
7. The practical difficulty is not self-created. Consensus – yes.

l. Conclusion: Approve.

m. Reasons for Conclusion: Based on the findings of facts as presented.

n. Decision: Trying to follow the regulations and setbacks and still be able to use the property. Approve as requested with a maximum of being five feet into the setback. The Comperes want to keep it out of the setback.

o. **MOTION** by Bowen, second by Lake, to approve Appeal #ZBA-2022-01, by granting the ability to repair and alter the nonconforming structure by allowing it to be replaced with the larger, 33'x14', structure which is encroaching maximum 5' into the 15' setback as requested by the Comperes based on the stated findings of fact

Roll call vote: Garza-yes; Wroubel-yes; Lake-yes; Bowen-yes. Motion carried to grant the variance.

Signing of the Variance Decision Certification Form.

Appeal #ZBA-2022-02. Parcel id: 28-13-122-003-00, parcel address: 9400 Larsen Road, Williamsburg, MI 49690.

b. Open Public Hearing on Appeal #ZBA-2022-02 at 7:35 p.m.

Owner/Applicant, Kodiak LTD, LLC member, Bernie Stover, 9400 Larsen Road, Williamsburg, MI 49690 is requesting an extension of nonconforming use/structure and extend the new structure into the 15' side yard setback.

Public hearing was posted in the Record Eagle on August 7, 2022, and notices were sent to property owners within 300' of the property subject to this public hearing, August 5, 2022.

b. Zoning Administrator Presentation: Received one correspondence in favor.

Existing building is in the side yard setback. Planning to keep the building into the side yard setback and extend further into the property. The first question always is "Is there anywhere else in the yard they can do it?" It is on a private road with property on both sides of the road. Have been cleaning up the property and this is the next step in clean up.

c. Petitioner Presentation: Bernard Stover explained that he purchased the property around 1990 and the garage and house were built in 1952 prior to zoning. The garage was destroyed in the storm of August 2021. Removed the building, left the slab and would like to add four feet to the north. Overhead wires

and septic system make it necessary to be placed in the requested location.

d. Report on Site Visit: Noted the long, narrow lot, trees, water, side yard encroachment, also that the slab is still there and the electric pole has been moved.

e. Correspondence: One note of approval was received as noted by the zoning administrator.

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: Vicki Beam questioned the standing on one living dwelling on a property. Bowen directed her to the Zoning Administrator as that is not applicable to this meeting/case.

i. Close Public Hearing on Appeal #ZBA-2022-02 at 7:49 p.m.

j. Discussion: Lake indicated that he does not see any way to make it different, does not see a hinderance. Mother Nature destroyed the other building.

Garza noted that it is staying on the same slab and extended toward the pole and it will continue to be 6' into the setback so it will stay nonconforming.

Bowen noted that the continued use will be the same nonconformity with the additional building size being into the property and was built before zoning was enacted.

k. Findings of Fact:

1. Granting the extension of nonconformity will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance. Consensus - yes

2. Granting the extension of nonconformity shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district. Consensus - yes

3. Granting the extension of nonconformity will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township. Consensus - 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. Consensus - yes

5. The extension of nonconformity 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. Consensus – yes because the new structure will be similarly sized, new, usable, up to code and conforms to current building and public health codes.

6. The extension request is required as the current structure is nonconforming and the Whitewater Township Ordinance requires the ZBA to approve any changes to nonconforming uses/structures. Consensus-yes

7. The practical difficulty is not self-created. Consensus – yes.

l. Conclusion: Rebuilding a garage on that site is not going to change anything and keeps it further from the water.

m. Reasons for Conclusion: Based on the findings of facts as presented.

n. Decision: Approve as requested.

o. MOTION by Bowen, second by Lake, to approve Appeal #ZBA-2022-02, the extension of nonconformity as requested by Bernie Stover based on the stated findings of fact to grant the ability to reconstruct the structure on the existing slab and extend it from 22' to 26' in length

Roll call vote: Wroubel-yes; Bowen-yes; Lake-yes; Garza-yes. Motion carried to grant the variance.

Signing of the Variance Decision Certification Form.

Other Matters to be reviewed by the Zoning Board of Appeals

- a. Correspondence Received - None
- b. Zoning Board of Appeals Members - None

Report of Planning Commission Representative, Wroubel: The Planning Commission (PC) is just about done with the work on the Medical Marijuana Ordinance. Recreational marijuana was voted down by referendum. Also, continuing to work on the master plan review. There have been a lot of comments on the Baggs Road Site Condominium project. It is not in the PC's hands yet.

Report of Township Board Representative, Unassigned: Not available

Report of Zoning Administrator, Hall: Spoke regarding the public comment regarding permitting a use that is not allowed vs. nonconformities which existed before zoning was enacted in the township.

Hall passed out the Planning and Zoning News relating to nonconformities. The zoning ordinance lacks in substance on handling nonconformities.

In mid-July the township board enacted a moratorium placing a hold on all site plan reviews, special use permits, PUDs or site condo. The board needs to direct the Planning Commission to address what they feel needs to be resolved before the moratorium can be lifted. The moratorium means the township board said we are not going to accept any applications that involve site plan review, special use permits, PUDs or site condos. Single family homes and AG buildings typically do not require any of these reviews.

Will keep an eye out for training opportunities. Look at possibly doing in-house training, bring in a planner. Training is needed. Maybe initial training needs to be part of the by-laws. Garza has been asking for training for years. Hall is not allowed to set up and bring in training at this township, which is something he can do at other townships he works with. The township does have resources allocated but the ZBA has to find its own training. MTA has a lot of training videos available. It would be best to have a facilitator, do it in a group setting.

Hall updated the board on what is happening with property from the January case.

ZBA can make a suggestion to the PC to address the nonconforming section of the ordinance.

Public Comment: Vicki Beam, resident of the township, commented on concerns about development in the community, listen to the residents, training should be mandatory, marijuana vote, speak into the microphones and multiple dwellings on a property.

Garza did an explanation on microphone usage.

There is no ZBA case on the docket for the next regularly scheduled meeting on September 22, 2022.

Adjournment: 8:40 p.m.

Respectfully submitted,
Recording Secretary
Lois MacLean