

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
Minutes for Regular Meeting on Thursday, September 23, 2021
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, Garza, Lake, Alternate Shaffer

Board Representative, unassigned, PC Representative, unassigned

Set/Adjust Agenda - Set

Declaration of Conflict of Interest None

Public Comment - None

Approval of Minutes:

MOTION by Bowen, second by Lake, to approve minutes of February 25, 2021. On voice vote, all in favor.
Motion carried.

Scheduled Public Hearing:

Appeal #ZBA-2021-01, owner: Robert Rauch, 10495 Deal Rd., Williamsburg, Michigan applicant: Robert Rieck, 355 Meguzee Pt., Elk Rapids, Michigan, are requesting an extension of nonconforming use. The property is zoned A1 – Agriculture Zone. The non-conforming use existed prior to the enactment of the zoning ordinance. Parcel 28-13-135-029-21, 10800 E. M72, Williamsburg, Michigan.

a. Open Public Hearing on Appeal #ZBA-2021-01 at 7:04 p.m.

Public hearing was posted in the Record Eagle on September 5, 2021, and notices were sent to property owners within 300' of the property subject to this public hearing, September 2, 2021.

b. Zoning Administrator Presentation: Non-conforming use extensions, according to the zoning ordinance, is brought before the ZBA for approval. This particular property non-conforming use existed prior to the enactment of the zoning ordinance.

In addition to the report in the packet Hall notes that in order to not allow this extension of non-conformity a willful and purposeful intent to cause harm would have to be found.

c. Petitioner Presentation: Robert Rieck, looking for permission to move forward on creating more self-storage. There is a huge demand for storage in the area.

Lake notes that it is very dry. The goal is to keep the pines. Only about half of the property will be built on.

Garza notes the easement on M72. It will be kept the same. It is a shared easement with John Lucsy.

d. Report on Site Visit:

Bowen: The current buildings that are there will continue to be used as storage.

Lake: Won't be able to see the buildings from the road, as it is currently.

Shaffer: Very familiar with the property.

e. Correspondence: None.

f. Public Speaking in Favor of Appeal: John Lucsy, 6295 Skegemog Pt. Rd., neighbor, have no problems with it. There is a greenbelt out front.

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-2021-01 at 7:20 pm.

Hall notes that the ZBA is used to dealing with variances, this is different. Recommend that if you lean toward an approval, I recommend that you make an approval subject to administrative review and bound by the zoning ordinance.

j. Discussion of Appeal: This is a commercial use in an agricultural zone. This property use was established before the property was zoned AG. Can he come back for more buildings in the future? – yes. Are we setting a precedent?

The location is an important factor. Buildings have been there since 1981. Will we be able to say no to a non-conforming variance in the future? There would have to be specific circumstances.

Shaffer: Don't see a problem. Like the berm / trees blocking the buildings from the highway.

Bowen: We should always look at hardship, injustice and is it self-created?

k. Findings of Fact:

1. Not willfully or purposefully trying to harm others and other property owners and will not be inimical to public health, safety or welfare. The buildings will be single story, low profile.

l. Conclusion: Approve.

m. Reasons for Conclusion: Based on the findings of fact and the site visits.

n. Decision: Make part of the approval to keep the greenbelt. The greenbelt is part of the original special use permit.

o. MOTION by Lake, second by Bowen, to approve Appeal #ZBA-2021-01, the extension of the non-conforming use building/structures based on the findings of fact of not willfully or purposefully trying to harm others and other property owners and will not be inimical to public health, safety or welfare particularly with regard to surrounding property owners; subject to administrative review; subject to the rules of the zoning ordinance requirements and will be required to keep and maintain the greenbelt. Upon roll call vote: Lake-Yes; Bowen-Yes; Garza-Yes; Shaffer-Yes. Motion carried.

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, Unassigned: None

Report of Township Board Representative, Unassigned: None

Report of Zoning Administrator, Hall: Recommend to have the Planning Commission look at this issue.

There is a lot of interest and questions regarding the M72 corridor.

Master Plan is under the five year review. We have a planner that is going to be working with the PC on the review.

Public Comment: None

There is no ZBA case on the docket for the next regularly scheduled meeting on October 28, 2021.

Adjournment: 8:02 p.m.

Respectfully submitted by Recording Secretary, Lois MacLean