

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING OF October 22, 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; Zoning Administrator, Josh Vey

Set / Adjust Agenda: Set, address for A-15-004 is 9185 not 9165 as indicated on agenda. It was noticed correctly.

Approval of Minutes: July 23, 2015, Motion by Lake, second by Lyons to approve minutes. All in Favor. Motion Carried.

Scheduled Public Hearing:

A. A-15-004

- a. Open Public Hearing on Appeal #A-15-004, at 7:04 p.m. Applicant: Scott Philip, Landscape Logic, PO Box 72, Charlevoix, MI 49720. Owner: Mark Morgan, 1119 Mohawk Ave., Royal Oak, MI 48067. Requesting a variance from Article XII, Section 12.11, Note 1, Schedule of Regulations. Specifically requesting a variance from the 50' setback from water's edge to a build stone retaining wall to stabilize shore and level the ground to place a 384 sf stone patio. Parcel ID 28-13-114-003-30, 9185 Skegemog Pt. Rd., Williamsburg.
- b. Petitioners Presentation: Mark Morgan, reasons: very steep hill, cannot be walked down, existing staircase is steep. Can we put stairs that cuts in the middle, making it more useable? No trees or anything will be coming down / disturbed. Were trees taken out with the storm (60 trees)? Neighbor pretty much clear-cut, south, has a patio that is similar. His will be to the right of the existing stairs. Pretty much cleared out already. There is a natural knoll in that area already. Wanting to use the north 90 feet of the property. Will remove the current stairs. Will leave the patio that is there. Scott Philip of Landscape Logic, sharing a photo of the area. This enhances the area for use and aesthetically from the lake. Questions from a structural standpoint? Large stones will be used to keep the natural look and use plants to naturalize with dark blues and browns stone. Halstead: There is no address on the house. ZO states we must have street number signs visible from the road for fire department. Benak: The steps that you have around the house currently, is that the type you are looking to use? Yes. Very nice, very natural.
- c. Report on Site visit: Bowen: It is a gorgeous piece of property. Can see why they would want to change/make it more useable. Benak: The current stairs are very steep. Very similar to what the neighbor did. It has the same set up as what is being proposed for erosion. Morgan: Ours is not nearly the scale theirs is. Benak: It is consistent with the surrounding properties. Bowen: Can see the need for something different, current stairs are falling apart (dangerous).
- d. Correspondence: None.
- e. Public speaking in favor of appeal None.
- f. Public speaking in opposition of appeal None.
- g. Anyone wishing to speak on the appeal Zoning Administrator comments: The hill does keep them from enjoying their lake front property. It is in character with surrounding properties. The definition of a structure includes the rocks being stacked on top of each other. According to the definition it does need to be addressed here. (Definition could be addressed at the PC level). Bowen: Because it is so close to the water it should come before the ZBA.
- h. Close Public Hearing on Appeal #A-15-004 at 7:23 p.m.
- i. Discussion of appeal: Lake: Can understand, the opening is a natural area for this to work well. Lyons: Will enhance the beauty of the property and make it more useable. Bowen: Something needs to be done due to the steep terrain.

- j. Findings of Fact: Cannot be used for other purposes; Not contrary to public interest; Practical difficulty for the owner; special unique conditions; unique circumstances; literal interpretation of this ordinance would deprive this owner the basic privileges awarded other property owners; not self-created by applicant; does not alter the essential character of the area; not injurious to other owners around; granting would do substantial justice to the land owner. Benak: granting the minimum variance necessary to accomplish. Granting the variance is not going to endanger health, safety and welfare, it will actually improve it.
- k. Conclusion: There is a good reason to grant the variance. Benak: Height of the retaining wall and patio
- l. Decision: Grant the variance to allow the 4' high retaining wall with 384 sf stone patio 12' away from Elk Lake.
- m. Motion by Lyons in favor of the appeal to grant the Variance to allow the retaining wall and patio based on the findings of fact, second by Benak.
Roll call vote: Lyons-yes; Benak-yes; Halstead-yes; Lake-yes; Bowen-yes. Motion carried.

B. A-15-005

- n. Open Public Hearing on Appeal #A-15-005, at 7:40 p.m. Applicant: Schmuckal Oil Company, 1516 Barlow, Traverse City, MI 49686. Owner: Swanny Properties, LLC, 9051 E M72, Williamsburg, MI 49690. Requesting a Dimensional Variance of Section 30.17.2, to replace existing sign within the 15' setback from the road right of way. Parcel ID 28-13-003-010-12. Applicant has an existing sign. This new sign will be in a new location. All other aspects of the sign is conforming
- o. Petitioners Presentation Paul Schmuckal of Schmuckal Oil, representing the company. Apologize for misunderstanding of sign location. Moving the sign east of the driveway more to the center of the canopy rather than the west side of the driveway. 75' right of way. Has been in touch with the state, they would not have a problem with us being even 15' from the road but we are wanting to be at the road right of way. Sign does meet the current ordinance for signs. Neighbor signs to the west appear to be less than 15' from the road right of way. Asking to be at the road right of way instead of 15' back. The current sign is actually encroaching on the right of way.
New picture presented showing location of the new sign. Bowen: The back end of the sign will be where dirt and cement come together? Paul S.: The sign will be 16' from the edge of the parking lot asphalt. Benak: What was the decision to move from the current location? The current sign is where the old Hoop's sign was. Halstead: Anything buried in the road right of way. Vey: They will need to contact Miss Dig. Paul S.: That is standard procedure. The gas line is nearer the road than where we are looking to put the sign. Bowen: Pole sign should have 20' height, and 15' from road right of way. Paul S. We will keep the footing just outside the road right of way (2 ft). Vey: When you are dealing with businesses that already exist it is difficult. Slightly less non-conforming. Paul S: The others to the west appear to be right on the road right of way. Wanting what is common with the other businesses. Lake: If there were to be an access road it would be right in that open area. Vey: Will be a much clearer view if the sign is moved and up in the air. Benak: Sign placement and height will be easier for people looking for it driving along M72.
- p. Report on Site visit: Benak: Took pictures. The current sign is hidden by a bush and other signs are in a nice row. Halstead: We did grant Rene's a variance to be closer to the road. Mr. C's sign is nicely visible. Need to adhere to what we feel is best for the corridor. Benak: Sign ordinance is for safety, public welfare. Being up higher it will help with the traffic hazards. Bowen: The slope of the hill makes it difficult. Benak: Didn't they change M72, widened it, expanded the road right of way, making all of the signs non-conforming for the businesses? Bowen: Coming from the west is it still a good fit? Lyons / Lake: It is more relative, having it up in the air, safer, easier to see. Paul S. There is a flag pole east of where we will put the sign that is much more visible than the current sign. By moving it will be much quicker and easier to see. Bowen: Because of the grade to that hill for safety reasons we have granted variances previously.
- q. Correspondence: Other business owner is glad to hear that it will be being raised up.

- r. Public speaking in favor of appeal None.
- s. Public speaking in opposition of appeal None.
- t. Anyone wishing to speak on the appeal None.
- u. Close Public Hearing on Appeal #A-15-005 at 8:00 p.m.
- v. Discussion of appeal Bowen: Have noticed that the sign is inadequate so I think a taller sign is going to be a great idea. It will especially be helpful for tourists. Benak: The original sign was likely built with the old 10' height restriction. Bowen: Was worried about the signs being in-line. I like the move further east; it is better. It will make all the signs more visible eliminating more possible safety hazard. If the state or county has to do something with the roadway the burden will be on Swanny's to have to move the sign. Benak: Defines where the gas station actually is. Bowen: Does not impede the other business signs.
- w. Findings of Fact: Practical difficulty for the owner; special unique conditions; literal interpretation of this ordinance would deprive this owner the basic privileges awarded other property owners; granting the minimum variance necessary; not self created; 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; not contrary to public interest, request is minimal necessary.
- x. Conclusion: What is the actual variance: Relocate the 48" x 20' tall sign to be east of driveway, directly outside the road right of way, a 15' variance.
- y. Decision: Grant the variance to allow.
- z. Motion by Lake in favor of the appeal to grant the Variance to allow sign placement based on the findings of fact, second by Lyons.
Roll call vote: Benak-yes; Halstead-yes; Lake-yes; Bowen-yes, Lyons-yes. Motion carried.

Other matters to be reviewed

No Correspondence received.

Vey: In terms of Site Visits, request the applicant put stakes out, have a simple map and a complete check list. Will put the list together and we can discuss at the next meeting. Benak: Is there anything that says we have permission to go on their property? That should be added.

Lake front property discussion. ZBA members to get an invitation to Camp-Hayo-Wenta spring meeting.

ZBA members need new copies of the Zoning Ordinance.

PC Rep. Report: Lyons: PC have gotten through the Master Plan. Working on Table of Contents and recodification of the Zoning Ordinance.

Board Member Report: Benak: Voted to outsource ambulance to MMR 24/7. Will do some renovations to the current fire station. They will start November 2, 2015.

Next meeting November 19, 2015, if needed. None on schedule.

Adjourned at 8:33 p.m.

Respectfully submitted by
Recording Secretary
Lois MacLean