

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
Agenda for Regular Meeting on Thursday, January 26, 2023
7:00 p.m. at the Whitewater Township Hall
5777 Vinton Road, Williamsburg, MI 49690
Phone 231-267-5141/Fax 231-267-9020

Join Zoom Meeting

<https://us06web.zoom.us/j/86314682868?pwd=Ui9Nb0dnYjJJZjl6V0VCWEFIYVZIUT09>

Meeting ID: 863 1468 2868 Passcode: 323348

One tap mobile: +13052241968,,86314682868#,,,,*323348# US

Dial in: +1 301 715 8592 US

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Set/Adjust Agenda
5. Declaration of Conflict of Interest
6. Approval of Minutes of August 25, 2022
7. Scheduled Public Hearings: None
8. Other Matters to be Reviewed by the Zoning Board of Appeals
 - a. Election of Officers
 - b. Review of Bylaws
 - c. Review of Rules of Procedure
 - d. Resolution #ZBA23-01, 2023/2024 Meeting dates resolution
9. Report of Planning Commission Representative
10. Report of Township Board Representative – No Representative Assigned
11. Report of Zoning Administrator
12. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township supervisor at 231-267-5141.

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 Compere's 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 Compere's 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 Marihuana Ordinance. Recreational marihuana 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, marihuana vote, speak into the microphones and multiple dwellings on a property.

Garza did an explanation on microphone usage. Township training coming on the sound system.

A projector would be a good addition to the meetings.

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

Whitewater Township

Zoning Board of Appeals Bylaws

The following rules of procedure are hereby adopted by the Whitewater Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101, *et seq.*

SECTION 1: Officers

- A. Selection and Tenure**—At the first regular meeting in January of each year, the Zoning Board of Appeals shall select from its membership a Chairperson, Vice Chairperson and Secretary. An elected Township Official shall not serve as Chairperson. All officers shall serve a term of one year, or until their successors are selected and assume office, except as noted in C below. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. Chairperson**—The Chairperson shall preside at all meetings, appoint committees and perform such other duties as ordered by the Zoning Board of Appeals or Township Board.
- C. Vice Chairperson**—The Vice Chairperson shall act in the capacity of the Chairperson in his/her absence. In the event the office of Chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice Chairperson for the unexpired term.
- D. Secretary** – The Secretary shall act in the capacity of the Chairperson in the event that both the Chairperson and Vice Chairperson are absent. The Secretary shall also sign all minutes of the Zoning board of Appeals upon approval.
- E. Planning Commission Representative**

The Planning Commission representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Planning Commission and update the Zoning Board of Appeals on actions by the Planning Commission that relate to the functions and duties of the Zoning Board of Appeals.
- F. Township Board Representative**

The Township Board representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Township Board and update the Zoning Board of Appeals on actions by the Township Board that relate to the functions and duties of the Zoning Board of Appeals.

SECTION 2: Meetings

- A. Meetings**—Meetings of the Zoning Board of Appeals shall be held on the Fourth Thursday of each month, or as noted below. All meetings shall take place at Whitewater Township Hall, 5777 Vinton Road, Williamsburg, MI 49690 at 7:00 P.M. The January meeting shall be mandatory in order to elect officers, review bylaws, and approve next fiscal year meeting dates.
- B. Notice**—Meetings which include a public hearing shall be noticed in the Township's newspaper of record not less than 15 days prior to the hearing. Notices shall also be mailed to property owners within 300' of the subject property. Meeting notices shall state the purpose, time and location of meetings and shall be posted in accordance with the Open Meetings Act.

- C. Public Records**—All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.
- D. Quorum**—A majority of the membership of the Zoning Board of Appeals shall constitute a quorum for transacting business and taking official action for all matters. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.
- E. Voting**—To pass or deny any variance, appeal or other official action required by the Zoning Ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals is required. Voting shall be by voice vote; a roll call vote shall be required if requested by any Zoning Board of Appeals member or directed by the Chairperson. All Zoning Board of Appeals members, including the Chairperson, shall vote on all matters, but the Chairperson shall vote last.
- F. Agenda**—The Chairperson and the Zoning Administrator shall be responsible for preparing an agenda for Zoning Board of Appeals meetings. The order of business for meetings shall be as follows:
1. Call to Order
 2. Pledge of Allegiance
 3. Roll Call
 4. Set/Adjust Agenda
 5. Declaration of Conflict of Interest
 6. Public Comment (unrelated to Public Hearing(s))
 7. Approval of Minutes
 8. Scheduled Public Hearings
 9. Other Matters to be Reviewed by the Zoning Board of Appeals
 - a. Correspondence Received
 - b. Zoning Board of Appeals Members
 10. Report of Planning Commission Representative
 11. Report of Township Board Representative
 12. Report of Zoning Administrator
 13. Public Comment
 14. Adjournment
- G. Public Hearings**—All public hearings held by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals. The following rules of procedure shall apply to public hearings held by the Zoning Board of Appeals:
1. Chairperson opens public hearing and announces the subject.
 2. Chairperson summarizes procedures/rules to be followed during the hearing.
 3. Applicant presents request.
 4. Township Zoning Administrator presents a summary or analysis of the request.
 5. Persons wishing to comment on the request are recognized.
 6. Chairperson closes public hearing and returns to the regular/special meeting.
 7. Zoning Board of Appeals deliberates and decides.

To ensure that everyone has the opportunity to speak, the Zoning Board of Appeals may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the Chairperson allows. The Chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the Chairperson, in his/her discretion, may permit additional comments.

All comments by the public and the Zoning Board of Appeals shall be directed to the chairperson.

- H. Special Meetings**—Applicants to the Zoning Board of Appeals may request a special meeting, of which all costs shall be paid by the applicant; if there is more than one applicant, the costs shall be shared equally between all applicants. The business the Zoning Board of Appeals may

perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. Special meetings shall also be noticed as required by the Michigan Zoning Enabling Act, as amended, the Open Meetings Act and these bylaws.

- I. **Recording Secretary**—A recording secretary shall be provided to the Zoning Board of Appeals. The recording secretary shall execute documents in the name of the Zoning Board of Appeals, perform the duties hereinafter listed below and shall perform such other duties as the Zoning Board of Appeals may determine.
 1. **Minutes**—The recording secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the Township Clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.
 2. **Correspondence**—The recording secretary shall be responsible for presenting all communications to the Zoning Board of Appeals.
 3. **Attendance**—The recording secretary shall be responsible for maintaining an attendance record for each Zoning Board of Appeals member and report those records annually to the Zoning Board of Appeals for inclusion in the annual report to the Township Board.

SECTION 3: Duties of the Zoning Board of Appeals

The Zoning Board of Appeals shall perform the following duties:

- A. Act on applications for variances, appeals, interpretations, or other matters as required by the zoning ordinance and Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101, *et seq.*
- B. Prepare an annual budget and annual report for the Zoning Board of Appeal's activities and submit to the Township Board.
- C. Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of a Zoning Board of Appeals member, and for which appropriations of funds have been approved by the Township Board, as needed.
- D. Perform other duties and responsibilities as requested by the Township Board or as may be specified in another Township Ordinance.
- E. Conduct site visits as deemed necessary to evaluate an application and supporting material. Site visits shall be conducted individually.

SECTION 4: Duties of the Zoning Administrator

- A. The Zoning Board of Appeals shall be assisted by the Zoning Administrator in performing the duties of the Zoning Board of Appeals, as noted in Section 3.
- B. The Zoning Administrator shall be responsible for the professional and administrative work in coordinating the functions of the Zoning Board of Appeals.
- C. The Zoning Administrator shall:
 1. Accept applications for matters to be reviewed by the Zoning Board of Appeals and ensure that such applications are complete.
 2. Forward application materials to the Zoning Board of Appeals at least one week prior to the meeting at which such matters will be considered.
 3. Inform the Zoning Board of Appeals of administrative and enforcement actions taken on behalf of the Township related to the Zoning Ordinance or other appropriate ordinance.
 4. Prepare written reviews and recommendations, if appropriate, for all requests and development proposals to be considered by the Zoning Board of Appeals.
 5. Perform other duties as may be directed by the Zoning Board of Appeals.

- D. The Zoning Board of Appeals may be assisted by other professional or Township staff as needed, including the Township Attorney, Township Engineer or other person or agency.

SECTION 5: Absences, Removals, Resignations, Vacancies and Alternates

- A. To be excused, Zoning Board of Appeals members shall notify the Zoning Administrator, Zoning Board of Appeals Chairperson or other Zoning Board of Appeals member when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence.
- B. Members of the Zoning Board of Appeals may be removed by the Township Board, after written charges have been prepared and a hearing conducted, for nonperformance of duty, misconduct in office or upon failure to declare a conflict of interest. For purposes of this section, nonperformance of duty shall mean two or more consecutive, unexcused absences. Alternates shall be notified to attend a meeting any time a regular member will be absent.
- C. A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Township Supervisor, Township Board or Zoning Board of Appeals Chairperson.
- D. Vacancies shall be filled by the Township Board within one month of resignation or removal of a member of the Zoning Board of Appeals. Successors shall serve out the unexpired term of the member being replaced, with the exception of the Planning Commission representative, whose term shall run consecutively with the term as Planning Commissioner.
- E. The Township Board may appoint not more than two alternates to the Zoning Board of Appeals. The alternate member may be called to sit as a regular member as provided in the Zoning Ordinance and the Michigan Zoning Enabling Act.

SECTION 6: Conflict of Interest

- A. Zoning Board of Appeals members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:
1. A relative or other family member is involved in any request for which the zoning board of appeals is asked to make a decision;
 2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency or association;
 3. The Zoning Board of Appeals member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the Zoning Ordinance or other applicable ordinance, or
 4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.
 5. The Zoning Board of Appeals member is also a member of the Planning Commission or the Township Board and voted on the same matter as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.
- B. The Zoning Board of Appeals member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the zoning board of appeals. He or she should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member declaring a conflict may absent him/herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally protected rights to participate. He or she should not make any presentations to the Zoning Board of Appeals as a representative of the proposal.

SECTION 7: Amendments

These bylaws may be amended at any meeting by a vote of a majority of the membership of the zoning board of appeals.

Adopted by the Whitewater Township Board at their regular meeting on February 11, 2020.

SECTION 1.0 PURPOSE

The following rules of procedure are hereby adopted by the **WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS** (hereinafter known as Appeals Board) to facilitate the performance of its duties as outlined in the “WHITEWATER TOWNSHIP ZONING ORDINANCE.”

SECTION 2.0 OFFICERS

2.1 SELECTION: At the regular meeting in January of each year, the Appeals Board shall select from its membership a Chairperson and Vice Chairperson. All officers are eligible for reelection.

2.2 TENURE: The Chairperson and Vice Chairperson shall take office the same meeting as their selection and shall hold office for a term of one year or until their successors are selected and assume office.

2.3 DUTIES: The Vice Chairperson shall act in the capacity of chairperson in his/her absence, and in the event the office of chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term. The Recording Secretary shall execute documents in the name of the Appeals Board, perform the duties hereinafter listed, and shall perform such other duties as the Appeals Board may determine.

SECTION 3.0 NOTICE OF APPEAL

3.1 FILING: Any interested person, or the person’s authorized agent, may appeal or seek a variance in writing on a form provided by the Zoning Administrator and upon payment of a fee as may be established from time to time by the governing body. Such notice of appeal shall be filed with the Zoning Administrator not more than (30) thirty days from the date of the decision being appealed. Such request for a variance shall be filed with the Zoning Administrator at any time.

3.2 NOTIFICATION: Within (20) twenty days from the date of the receipt of their request for a variance or notice of appeal, the Zoning Administrator shall contact the chairperson of the Board of Appeals and set up a date(s) and time for the Appeals Board to meet, to hold a hearing to consider and act upon the case. Notice of such meetings(s) shall be made by the Zoning Administrator as specified in section 4.3 of these rules of procedure. The notice sent to the members of the Appeals Board shall include copies of the notice of appeal or request for a variance form; the entire contents of the Zoning Administrator’s file, and/or other file(s) on the case; other relevant correspondence, permits by other applicable enforcement agencies; and anything else that is relevant. Zoning Administrator shall provide a copy to the Township Clerk for purpose of posting. In addition to the notice requirements, notice of such meeting shall be delivered in person or by first class mail to the governing body’s attorney, any other interested persons, the landowner, adjacent landowners and occupants within (300) three hundred feet, not less than (15) fifteen days prior to meeting. Notifications will be sent by the Zoning Administrator.

3.3 DEADLINE FOR ACTION: The above notwithstanding, the Appeals Board shall hear the case and render and file its decision with a statement of reasons for the decision with the Zoning Administrator not more than (60) sixty days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and the Appeals Board.

3.4 SITE INSPECTION: The Appeals Board, if the Chairperson considers it necessary, may conduct a site inspection at the site at issue. In such instance, the site inspection shall be posted as part of the public meeting/hearing. A quorum of the Appeals Board shall not ride in the same vehicle to or from a meeting. The site inspection, if posted as part of their meeting/hearing, shall always be held on the same day and as part of the same meeting as the start of the public hearing on the case. Nothing in this paragraph shall prevent the members of the Appeals Board from individually or separately visiting a site in question at their own expense and time. A quorum of the Appeals Board shall not make site inspections or otherwise discuss a notice of appeal except during posted open meetings of the Appeals Board.

3.5 NOTICE OF DECISION: The Recording Secretary shall cause to have notices of the Appeals Board decision delivered in person or by first class mail to the Zoning Administrator, to anyone else requesting a copy in writing, and to the petitioner, or his agent.

SECTION 4.0 MEETINGS

4.1 REGULAR MEETINGS: The Appeals Board shall meet at least once each year during the month of January. Any other meetings of the Appeals Board shall be called as needed in response to receipt of a notice of appeal, so long as the meeting is scheduled within (60) sixty days of the notice of appeal. The meeting can be called by the Zoning Administrator of Whitewater Township, the Chairperson of the Appeals Board, or, in his absence, the Vice Chairperson.

4.2 ATTENDANCE:

- A. If any member of the Appeals Board is absent from more than (3) three meetings in a row, then that member shall be considered delinquent. Delinquency shall be grounds for the governing body to remove any member for nonperformance of duty or misconduct upon public hearing from the Appeals Board. The Recording Secretary shall keep attendance records and shall notify the governing body whenever a member of the Appeals Board is absent for more than (3) three meetings in a row, so the governing body can consider further action allowed under law.
- B. When a petitioner fails to appear at a properly scheduled meeting of the Appeals Board, the Chairperson may entertain a motion to dismiss the case for want of prosecution; the petitioner will be furnished written notice of the action by the recording secretary of the Appeals Board. The applicant shall have (7) seven days from the date of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Zoning Administrator for reinstatement. Reinstatement shall be at the discretion of the Chairperson for good cause shown, and upon payment of a fee set from time to time by the governing body. In all cases reinstated in the above described manner, the case will be docketed and readvertised in the usual manner prescribed as new cases.

4.3 OTHER MEETINGS: Meetings shall be called by delivering meeting notices by first class mail or in personal delivery to members of the Appeals Board at least (10) ten days prior to such meeting and shall state the purpose, time and location of meeting and shall be posted at the Township Hall.

4.4 PUBLIC: All meetings, hearings, records and accounts shall be open to the public and posted in compliance with P.A. 267 of 1976, as amended, being the Open Meetings Act and the Americans with Disabilities Act.

4.5 QUORUM: Half the total membership of the Appeals Board shall constitute a quorum for the transaction of business and the taking of official action for all matters.

4.6 ORDER OF BUSINESS: Agenda. The chairperson or a designate shall prepare an agenda for each meeting and the order of business therein shall be as follows:

- A. Call to order and roll call.
- B. Site inspection, then recess (optional), if the meeting is posted to include a site inspection.
- C. Reconvene and roll call (if following a site inspection).
- D. Election of officers, if necessary.
- E. Public Hearings. The chairperson will declare a public hearing open and state its purpose.
 - (1) The chairperson shall summarize, provide copies, or conspicuously post the procedure for public hearing as outlined in sections 4.6, 4.7, 4.8 and 4.9 of these rules of procedure for any members of the public in attendance.
 - (2) Case Number _____
 - (I) The Zoning Administrator presents the petitioner's request, his/her decision plus a written copy of his request.
 - (II) The petitioner, through himself/herself, his/her agent, his/her lawyer, may present his/her case; including presenting witnesses on his/her behalf. No time limit will be imposed on the petitioner.
 - (III) Members of the Appeals Board shall report on site inspection and any conversations with the petitioner they may have had.
 - (IV) Members of the public who support the petitioner speak and correspondence is read.
 - a. The Chairperson may recess the meeting for a short time to allow those in support to caucus, in order to have one speak on their behalf for an unlimited period of time if there are a large number of people present on an issue.
 - b. The Chairperson may allow many to speak in favor of the petitioner and can impose a time limit for the speaker that is (5) five minutes or more per speaker.
 - (V) Members of the public who oppose the petitioner speak and correspondence is read.
 - a. The Chairperson may recess the meeting for a short time to allow those in opposition to caucus, in order to have one speak on their

behalf for an unlimited time if there are a large number of people present on an issue.

- b. The Chairperson may allow many to speak in opposition to the petitioner and can impose a time limit for the speaker that is (5) five minutes or more per speaker.

(VI) Rebuttal: Anyone may ask the Chairperson questions on presentations or speeches given at this hearing. The Chairperson will seek an answer to the question. No discussion, questioning, or answering shall take place between any two or more people, except between the Chairperson and the individual who has the floor.

(VII) Close the public hearing. (At this point all public participation on the issue ends.)

F. Recess to another night as provided in section 4.8 of these rules of procedure (optional).

G. HOUSEKEEPING SESSION:

- (1) Approval of minutes from previous meeting.
- (2) Other

H. BUSINESS SESSION:

Action on pending case number _____

- (I) Discussion: Review of facts based on all information presented (from the application, written request for the appeal, zoning ordinance, physical characteristic of the parcels, staff reports, hearing testimony). Discussion continues until a member is confident to make a motion that includes a “finding of fact” and/or “conclusions” and “rationale explaining why conclusions are reached” and “conditions” if any.
- (II) Motion is proposed on “finding of fact”
- (III) Discussion on motion
- (IV) Action on motion
- (V) Discussion focusing on standards and requirements of ordinance
- (VI) Motion is proposed on “rationale, conclusions and conditions”
- (VII) Discussion on motion
- (VIII) Action on motion

I. ADJOURNMENT

4.7 COMMENTS OUT OF ORDER: The Chairperson may rule out of order any irrelevant remarks; remarks which are personal, about another’s race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or any other remarks which are not about the land issue.

4.8 RECESS: The Chairperson may recess a public hearing and/or meeting to another time if it is after 11 P.M. or if the meeting (not including site inspection) has been over (3) three hours, or to gather more information. In order for a recess to be in order, the time, month, date, year and location to reconvene shall be stated as part of the action to recess. If a meeting and/or public hearing reconvenes over (36) thirty six hours after the action to recess, the reconvened meeting shall be posted at least (18) eighteen hours before the reconvened meeting, to comply with section 4.4 of these rules of procedure. Upon reconvening, a roll call shall be taken as the first order of business.

4.9 PARLIAMENTARY PROCEDURE: Meetings shall be conducted in a formal manner, and parliamentary procedure shall be governed by Robert's Rules of Order if not specifically dealt with in these rules of procedure.

4.10 MOTIONS: Motions shall be registered by the Chairperson before a vote is taken.

A. Motions dealing with an appeal or variance concerning the Whitewater Township Zoning Ordinance shall be stated with the following parts or stated as two motions:

- (1) The list of facts which is the information pertinent to making a decision on the matter, structures as "finding of fact" on the case.
- (2) The conclusion, decision, of the Appeals Board. This motion, or part of motion, shall include the following parts:

(I) The rationale and reasons why the conclusion was made. The rationale, reasons, shall contain as a minimum:

- (a) **If the property cannot be used in conformance with the ordinance without the requested variance.**
- (b) **If the problem is due to a unique situation not shared in common with nearby property owners.**
- (c) **If granting the variance would not alter the essential character of the area.**
- (d) **If the problem requiring the variance was not self created.**

(NOTE: All 4 of the above points must be found true, or in the affirmative, or a variance shall not be granted.)

(e) Other specific standards for variance that may be in the Whitewater Township Zoning Ordinance.

(f) An explanation how the facts support the conclusions

(I) The conclusion or decision.

(II) Any conditions upon which a variance may be issued, if applicable. Conditions shall be listed in detail, and based on regulations or standards already in the Whitewater Township Zoning Ordinance.

(III) Reasons why the conditions are imposed.

B. Motions dealing with an ordinance interpretation, or an appeal of the administrative decision,

(1) The list of facts that are the information pertinent to making the decision on the matter.

(2) The conclusion or decision of the Appeals Board. This motion, or part of motion, shall contain the following parts:

(I) The rationale, or reasons, to explain how the facts support the conclusion.

(II) The conclusion or decision.

C. Any other motion shall be stated in prose or in the form of a resolution.

4.11 VOTING: Voting shall be by alternating roll call, and shall be recorded by Yes and No. Members must be present to record a vote. **A motion is only adopted if over half the total membership of the Appeals Board cast their vote in favor of the motion.**

SECTION 5.0 RECORDS

5.1 PREPARATION: A record of each meeting, including hearings and site inspections, shall be prepared by the recording secretary or his/her designee.

5.2 CONTENT: The record of each meeting shall include the following items:

- A. A copy of the meeting posting as required in section 4.4 of these rules of procedure.
- B. A signed statement indicating that notices, as required in section 3.2 of these rules of procedure, were sent out, with a list of to whom notices were sent and an indication of who sent notices; and a copy of the newspaper notice, if one was published.
- C. A copy of the request for the variance or notice of appeal, whichever is applicable, including any maps, drawings, site plans, etc.
- D. The original minutes of the meeting (including the hearing and site inspection) which shall include all actions taken in chronological sequence of occurrence.
- E. The records of any action on the case by the Zoning Administrator.
- F. The records of all past records regarding the property involved in a case (previous permits, special use permits, variances, appeals).
- G. Any relevant maps, drawings, photographs, presented as evidence at a hearing.
- H. Copies of any correspondence received or sent out in regard to the case.
- I. A copy of relevant sections or a list of citations of sections of the ordinance.
- J. Copies of any followup correspondence to or from the petitioner regarding the decision.

5.3 RETENTION: The record of each meeting shall be permanently kept on file in the Clerk's office and spread in suitable volumes. All the pertinent documents and minutes for each case before the Board of Appeals shall be copied and filed with the Zoning Administrator's office. Copies of the minutes shall be available to the public within (8) eight business days of the meeting.

SECTION 6.0 PER DIEM AND MILEAGE

Mileage and per diem may be paid to members of the Appeals Board at rates established by the governing body for attending Appeals Board meetings, and other authorized meetings and trips, if those members submit a bill for the same. Only mileage may be paid for attendance at site inspection meeting. No mileage or per diem is paid to any member unless authorized and budgeted by the governing body.

SECTION 7.0 ADOPTION AND REPEAL

Upon adoption of these rules of procedure, March 27, 2003, they shall become effective and all previous rules of procedure shall be repealed.

SECTION 8.0 AMENDMENTS

These rules may be amended at any regular meeting by a majority vote of the total members of the Appeals Board, so long as such amendment does not result in a conflict with State law, zoning ordinance, or court decision.

Amended 02/24/2005, 03/23/2006, 03/22/2007, 01/26/2017

Resolution #ZBA23-01

Resolution for Whitewater Township Zoning Board of Appeals
Regular Meeting for 2023/2024
Whitewater Township
Grand Traverse County, Michigan

Be It Resolved that the Whitewater Township Zoning Board of Appeals will meet in regular sessions, as needed, for the 2023/2024 fiscal year on the following dates at 7 p.m. at the Whitewater Township Hall, 5777 Vinton Rd., Williamsburg, Michigan.

Thursday, April 27, 2023
Thursday, May 25, 2023
Thursday, June 22, 2023
Thursday, July 27, 2023
Thursday, August 24, 2023
Thursday, September 28, 2023
Thursday, October 26, 2023
Thursday, November 16, 2023*
Thursday, December 21, 2023*
Thursday, January 25, 2024
Thursday, February 22, 2024
Thursday, March 28, 2024

*November and December meetings are different than the normal fourth Thursday due to the holidays.

A motion to adopt the foregoing Resolution was made by _____ and seconded by _____.

Upon roll call vote, the following voted:

Bowen -

Lake -

Garza –

Wroubel, Planning Commission Representative -

No Board Representative assigned

Resolution declared adopted.

I, _____, Secretary of the Whitewater Township Zoning Board of Appeals, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Whitewater Township Zoning Board of Appeals of said municipality at a regular meeting held on _____, relative to the adoption of Resolution #ZBA23-01.
