

DRAFT
WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF FEBRUARY 21, 2012, SPECIAL MEETING

Call to Order by Millar at 7:00 pm

Roll Call: Bowen, Benak, Lake, Miller, Millar, Recording Secretary-MacLean, Zoning Administrator-Meyers

Approval of Minutes of 11/10/2010 Meeting. Motion by Lake to approve seconded by Bowen; all in favor. Motion Carried.

Public Comment: None

Business Session:

1. Election of Officers Currently Millar Chairman, Bowen Vice Chair
Motion to reappoint officers as they stand by Miller, seconded by Lake. All in favor.
Motion Carried

2. Public Hearing on Appeal #A12-001, Charles Davis; 13-004-018-00, 8500 Crisp Rd., Williamsburg, MI 49690.

Open Public Hearing 7:03

Zoning Administrator Presentation: Notices were sent out the first week of February and posted in the Elk Rapids News. House purchased in late 2008. Currently zoned R2. Would like ability to bring his horses to his property. Under appeal is a variance of lot size by .5 acre and variance on building set back from 100 to 64 ft. Zoning Administrator recommendation is to: Grant a variance of ½ acre and to allow for a 36' housing set-back variance from the west property line with the condition that the number of livestock not exceed 2 horses.

Zoning Administrator recommendation based on the following findings of fact:

**Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of the Ordinance. While the property can be used for its intended residential purpose, limited agricultural is consistent throughout the area.*

**Granting the variance will not alter the essential character of the area. The fractional shortfall of acreage will be unnoticeable.*

**Granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.*

**The problem requiring the variance is not self created as the applicant will bring the parcels into a more compliant situation by combining the two parcels, on which has no road frontage.*

**By limiting the number of livestock on the parcel, the variance would be consistent with the spirit of the ordinance and would secure the public safety and welfare.*

**The variance is the minimum necessary to permit reasonable agricultural use of the land.*

**The variance will not cause a substantial adverse affect upon adjacent properties as the uses are consistent – agricultural.*

**The variance will not produce nuisance conditions to nearby premises as the number of livestock will be limited.*

**The variance will not otherwise impair the public health, safety, comfort or general welfare of the residents of the Township but will encourage and enforce goals of the Township's Master Plan.*

Millar: From the map: property to the west is capable of being developed. At the south side the house is not in Parcel B. Two parcels west of parcel B. The zoning ordinance in R1 6.10 subpart F no space for livestock housing, enclosure/space.

Meyers: Space is the building that houses the animals, not the pastures.

Miller: Parcel B, westerly line is that where the abandoned foundation? Yes.

Petitioner Presentation: Charley Davis, 8500 Crisp Rd., house actually faces Williamsburg Rd. Leslie has covered everything. Reason: With the leach field, I cannot go any further to the East. The enclosure is going to be 200 sf, three sided shed with a roof. Parcel B is an L shaped piece that hits on the south and the west. Also, the small sliver of land is on the west side of Williamsburg Rd. and there is no way anyone can build on the three acres because it is a hillside, wetland and the setbacks, the other side of the road is a conservation easement. Would like to have three horses, two of our own and working with Horse Rescue, in case they would like to pasture a horse there.

Millar: Can you pull the shed next to the garage?

Davis: No. The leach field is a problem. Will go over as far to the East as possible to get as much as possible. Cannot get far enough over to NOT need the variance.

Report on Site Visit: The drawing is accurate. Lake: some of the changes, he wants to move some trees to help create a shield. Wants to put trees along the "B side".

Correspondence Paul and Mary Acker, 2-9-12 letter received. Read through letter.

Public Speaking in Favor of Appeal:

Kim Mangus: 1214 Cerro Dr., Traverse City, MI. Owns all the property north of this parcel, no objection. Would be nice to see the horses. Property is not unsuitable. The additional property being offered by the Akers is not where he is looking to put the horses. I am in favor.

Ed Rooney: 5450 Millbrook Dr., about a third of the residence received the letter, he then sent it to all. No controversy from the Millbrook area. Millbrook Estates has no objection. Lake: the trail along the south end of Millbrook, is it marked, laid out and is it used? Rooney: Yes.

Public Speaking in Opposition of Appeal: None

Anyone in Attendance who wishes to speak on this appeal: Mr. Davis, clarify the conversation with the Ackers about the property mentioned in the letter. As mentioned by Mangus the property is not suitable and does not help with the horses.

Close Public Hearing at 7:25

Discussion on Appeal: We need to consider two things, the acreage, ½ acre short and 36 foot or less set back. Limit the number of horses. Meyers: There is about 27,000 sf designated for pasture. Lake: 2 acres for 2 horses and 2 acres for each additional horse. Meyers: That general plan is standard in other communities, we do not have that language here.

Findings of Fact: Bowen: Someone building on Parcel B? Meyers: Standard practice, the 12,000 sq ft is not something that is going to happen until sewer and water come through that area. Two parcels to the west look like farm houses. Crisp Road and Williamsburg Rd. have a very rural character. Bowen: Does it change where they would build on Parcel B? Meyers: No, not a problem, not any hardship on a potential purchaser. Benak: Seems the Ackers would have put in their letter if they thought it would be a hardship, being they are the owners of Parcel B. How many horses can really

thrive in a pasture that size. It is consistent with the surrounding rural properties, and the neighbors are okay with it. Lake: Feel like 2 horses are plenty but if he were helping to salvage a horse, a temporary horse help, that would be nice. Benak: You can tell the quality of what he does, will not be a burden on the neighbors. Lake: I think he will take care of them.

Millar: The problem I have with it is that we have gone round and round as a board. I am a strict interpreter of the ordinance. In a previous similar case, it was zoned ag and we did not have the set back issue. The ordinance is clear that it is 2.5 acres that is needed for livestock and poultry. Did the planning commission make a decision regarding chickens? Yes. The PC has made provisions for housing smaller animals. Millar: When looking at the four questions: The property can be used, just not what he wants to use it for. It is not a problem shared with others in the area. He just has too small of a parcel. It would not alter the essential character of the area. Not self created? Maybe he should have attempted to purchase an additional ½ acre at the time. Problems with questions 1 and 2. Seems it would be deviating from the ordinance, creating special classes. We do not know what people are going to buy parcel B and they may very well want to put the house close to the property line, we don't know. That's why I think we need to try to remain true to the ordinance. That is where I have difficulty with this variance. Bowen: Feels the same way. It is zoned residential, not ag. Benak: Was it ever zoned ag? Meyers: Don't know, can check. Benak: What do you mean by the "spirit of the ordinance". Meyers: Consistent with the rural character. Divided into classes, it could have been ag, RC1 or recreation/conservation. Benak: Most of that land was ag, it's use was ag. There are horse farms all up and down the road. There is a horse farm with more acreage with 6 horses. Other parcels in the area have horses. So it is consistent with the area. Meyers: Parcel B's most buildable area is south. Miller: To Mr. Davis: if you had two horses, would you be able to pasture without extra feed? Davis: No, I will be feeding them. At one time it was a pasture. I will supplement the feed. Benak: You pointed out that it is not safe to have your mailbox on Williamsburg Road, are you going to make sure the fence will keep the horses in the fence and off the dangerous curve? Davis: yes.

Decision

Motion: Motion by Miller to approve both parts of the variance request based on the findings of fact as stated in the ZA's findings of fact, with a limit of three horses. Seconded by Benak. Roll call: Millar-no; Miller-yes; Lake-yes; Benak-yes; Bowen-no. Motion Carries 3 to 2; variance granted.

- 3. Resolution #12-01 Regular Meeting Dates for 2012/2013. Motion by Bowen seconded by Benak to adopt Resolution #12-01, ZBA 2012 / 2013 Regular Meetings schedule.**

Zoning Administrator Report Update on the chickens, the PC got that through and the temporary houses. Bringing in a temporary structure was also approved.

Adjournment at 7:50 p.m.