

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS
MEETING MINUTES OF DECEMBER 18, 2012

Call to Order by Bowen at 7:01 p.m.

Roll Call: Benak, Bowen, Lake, Lyons, Recording Secretary-MacLean, acting Zoning Administrator-Popp and 2 in audience

Absent: Millar

Public Comment (For items not on the agenda) None

Approval of Minutes of 11/20/12 Regular Meeting. Motion to approve by Benak, seconded by Lyons; all in favor. Motion carried.

Business Session

Notices were sent out and posted in the newspaper.

- 1) Open Public Hearing at 7:05 on Appeal #A12-006, of applicant: Thomas Kellogg; property owner: Ted and Patricia Styke
10153 Miami Beach Rd., parcel #28-13-310-012-00.

Zoning Administrator Presentation: Information from prior ZA: Notice posted in the Elk Rapids News and mailed to near properties. A request for a variance from Article 12.11, in the R-1 district of 100'. Plus variance from General Ordinance #26 as the lot would exceed the 1:4 width to depth ratio. The proposed ratio is 1:6.2. Reading of the background of the property.

Recommend granting of the variance. Popp explanation: looking at the map, it is already non-conforming. Kellogg is looking to purchase the property from the Stykes. It does leave both properties as non-conforming. Explanation of the background of the property and reading of the department findings.

Petitioner Presentation: Don Fedrigo is representing both parties. Both parties realize that any building would have to come before the ZBA again.

Correspondence from the Stykes. Popp explained the non-conformity issue to them. They are aware and okay with it.

Report on site visit: Benak: it is pretty much the same as all of the rest of the Miami Beach area where all are putting their accessory structures on the south side of the road. We have done this two other times since I have been on the ZBA. Bowen: It is the same. Popp: Any comment on the drainage ditch on the south side of the road? There is standing water, right behind the garage. Bowen: It is evident there is not a lot of room there. Lake: There is a lot of wet land there.

Public Comment: In favor: none. In opposition: Popp: Supposedly we had received two correspondence, but I did not receive any. A phone call from Robert Farrell, who did receive the meeting notice on lot #10, 10125 Miami Beach Rd., opposes because of water run-off. Once split new parcel will likely have a structure and driveway, this structure would cause more run-off and run across the road, the existing garage has no culvert in the ditch. Doesn't appear to be opposed to the split but he is concerned about any building. Benak: This is not about the building and a condition to put in a culvert can be imposed at the time if they should ever come back through for a building. Juanita Pierce called Supervisor Popp also, of 9747 Miami Beach, was not sent notification. Against the split because of water run-off. This causes the water to run away from the structure. She said one woman from the township and the drain commissioner has been out there and nothing has been done. Pierce has installed tile. Typically the water runs across the surface and does not seep into the ground. Popp: Appears that water run-off is a problem. Lake: This is about the land not the building.

Any Comment on this Appeal: None

Close Public Hearing: 7:31 p.m.

Discussion: Bowen: Referring to the findings: Benak: This does cause a burden. Bowen: Would they be able to build anything? No, there is already a structure there. Benak: It would not cause adverse affect as they are all doing that. Lake: Speculation of what could happen down the road is not what we are dealing with. Farrell and Pierce are “a couple” according to Mr. Fedrigon. Popp: We are looking at a land split only. Any construction would have to come before this board. Bowen: Decision must be based on the rules/laws we have in hand. I don't see it as any different than what is already in existence there. “Self created” is the only one I possibly have an issue on because it will happen only because of the sale. Any different ideas? Lyons: It will actually make it more consistent in the area. By splitting the lot in half it gives both lots 84', a non-conformity but not as dramatic as the original plan was to split the 168' at 57' and 110'. Both parties are aware that a new survey would need to be done. The 84' is different than the original request.

Findings of Fact: The lots will be used for accessory structures only. These lots will provide additional room for the two lake front non-conforming lots of record. Accessory structures are customary and common in this waterfront neighborhood. The non-conforming waterfront lots of record have limited ability to provide accessory storage. The variance will allow the applicants to enjoy customary and reasonable use of their property. All parcels on the south side of Miami Beach road exceed the 1:4 ratio. As all parcels south of Miami Beach Road exceed the required ratio, conformity will be unreasonably burdensome. Lots in the area range from 70' to 100' in width. The creation of two lots 84' in width for accessory purposes will not adversely impact the area. Only the north 70' – 100' of the lots are buildable due to regulated wetlands encompassing the majority of the parcels. Other split options would create one more non-conforming lot.

Conclusion: Do not grant the original request of splitting the 168' lot into a 57' and a 110' lot. Grant a variance that makes both parcels closer to conformity.

Reasons for Conclusion: Based on the findings of fact and health, safety and welfare are not in jeopardy.

Decision: Deny original request and grant as adjusted, the Stykes and Kelloggs are in agreement of the even split of the 168' lot. Parcel to be split in the center.

Motion to deny original application by Benak, seconded by Lyons, all in favor.

Motion by Benak to grant a variance of 16' from the standard 100' width requirements of Article 12.11 and variance of width to depth ratio of 1:6.18 from the standard 1:4 ratio as stated in General Ordinance 26 section VIII with the stipulation that any land use must come forward to the ZBA for approval, based on the findings of fact, seconded by Lyons. Roll call: Benak – yes; Bowen – yes; Lake – yes; Lyons – yes;. All in favor. Motion carried.

Popp: There is possibly another ZBA case coming in January for the Carpenter Trust.

Adjournment at 7:51 p.m.

Respectfully Submitted by Recording Secretary Lois MacLean