

**Whitewater Township Zoning Board of Appeals  
Minutes of 12/17/09 Regular Meeting**

**Call to Order**

Acting Chairperson Bowen called the meeting to order at 7:03 p.m.

**Roll Call**

Members Present: Benak, Bowen, Lake, Miller and Halstead

Members Absent: Chairman Millar (excused)

Also Attending: Planning/Zoning Administrator Meyers,  
Recording Secretary MacLean plus three others

**Set/Adjust Agenda**

No adjustments to Agenda.

**Approval of Minutes**

Lake motioned for approval, seconded by Benak, to approve the 8/27/09 Regular Meeting Minutes. **Motion Approved 5-0.**

**Business Session:**

**Public Hearing on Appeal #A4-09, Suzanne Bruley & Paul Mobley, parcel number 28-13-110-007-00, property address 10484 Orchard Lane.**

Hearing to consider a variance from Article 6.10, to erect a second home on a parcel of land for a limited period of time.

**Open Public Hearing**

Bowen opened the public hearing at 7:07.

**Zoning Administrator Presentation**

The applicants request is reasonable and Meyers recommends the following: The ZBA grant a variance from Article 6.10 of the Zoning Ordinance to allow for the temporary placement of two principle structures on a parcel of land for a temporary period of time with the following conditions:

1. The existing home will be demolished or converted to a storage facility within 12 months of the breaking of ground for construction.
2. Only one dwelling may be occupied at a time.
3. If the existing home is not removed or converted within the 12 month period, the applicant agrees to pay any Township expenses, included attorney fees to enforce removal to bring the parcel into compliance.

Based on the following conclusions:

- The Zoning Board of Appeals has granted this allowance a number of times in the past.
- While the property can be used in conformance with the ordinance without the requested variance, the request is temporary in nature. The variance will allow for the applicants to oversee the construction of their new

home. The existing home was constructed in 1977 and is substandard with respect to today's building codes. The new structure will be in compliance with IBC 2006 Code, with Michigan modifications.

- Granting the variance will only alter the essential character temporarily as the existing home will be removed or converted to storage space upon completion of the new home.
- The variance will not cause a substantial adverse affect upon adjacent properties but will in fact improve the value of said properties.
- The variance will relate only to the property under the control of the appellant.
- The variance will not jeopardize the preservation of a substantial right but improve the existing conditions.
- The variance will not otherwise impair the public health, safety, comfort, or general welfare of the residents of the Township and will actually improve said health and safety as the new structure will be constructed in accordance with today's building codes.

### **Petitioner Presentation**

Don Fedrigon – realtor, representing the applicants: Applicants would like to get going on construction as quickly as possible. They will remove plumbing in the current building, re-side it to match the house and turn it into a storage facility or garage.

Discussion regarding the septic placement and possible approval. This variance request is for the use of the building and does not address septic placement or approval. Whitewater township's permitting process does not guarantee approval by other agencies.

### **Report on Site Visit**

Request seems reasonable.

Familiar with the site.

### **Correspondence**

Jeffrey C. Batheric, Mount Vernon Rd., Shelby Twp., Michigan, who owns property adjacent to the property in question, sent a letter expressing concern about the location of the septic and placement of the new house. He would like an environmental assessment done. They have no problem with the buyer leaving the existing home standing while building the new home.

Mr. Batheric's issues have nothing to do with this ZBA variance request. Again, these issues will be addressed by the County Health Department, DEQ and other departments that deal specifically with those issues. State law says that storm water and drainage will not have an adverse affect on neighbors.

### **Public Speaking in favor of Appeal:**

None

**Public Speaking in Opposition of Appeal:**

None.

**Anyone else who wishes to speak on this appeal:**

Pete DiMercurio, with property at 8062 Cram Rd, Williamsburg, is President of The Elk-Skegemog Lake Association. Not opposing or in favor of, just interested. Questions the process if the health department does not approve the planned location of the house and septic. It sounds like this variance is ahead of the process.

Meyers: The process for this application is such that they have to get permission to live in the existing home during construction in order to get their other permits, otherwise their first permit from Whitewater Township would be a demolition permit. They do have a Soil Erosion Permit for construction of the new house.

**Close Public Hearing on Appeal #A4-09 at 7:32 p.m.**

**Discussion on Appeal:**

Do we have an obligation to forward the correspondence letter on to Drain Commission?  
The Zoning Administrator will respond.

The ZBA's charge is determining whether the old structure can remain while the new structure is being built.

Motion by Miller to approve Appeal #A4-09, variance from Article 6.10, to allow a second home on a parcel of land for a limited period of time during construction, with the following conditions:

1. The existing home will be demolished or converted to a storage facility within 12 months of the breaking of ground for construction.
2. Only one dwelling may be occupied at a time.
3. If the existing home is not removed or converted within the 12 month period, the applicant agrees to pay any Township expenses, included attorney fees to enforce removal to bring the parcel into compliance.

With the findings of fact:

We have done this in the past. We have ruled similarly before. It will be for a limited amount of time. It is reasonable. Only one dwelling may be occupied at a time. The variance will not cause adverse affect on adjacent properties. It will improve the value of the property. Variance will not jeopardize the health, safety or welfare of the residence of the township.

Motion Seconded by Halstead.

Bowen: The conclusion is that the variance should be approved for the reasons stated. A yes vote is to approve the variance as set forth.

Roll Call Vote:

Benak – Yes

Lake - Yes  
Bowen – Yes  
Miller – Yes  
Halstead – Yes

Motion carried, 5-0

#### Zoning Administrator Report

Copies of the new Article 18, ZBA, were distributed. -The township board has formally authorized the ZBA to grant use variances. This ordinance is very clear. New By-laws will have to be written.

ZBA should consider asking the Planning Commission to review temporary structures. Tonight's request is the 17<sup>th</sup> time this type of request has come before the board. It would be appropriate to have Pat Miller take a request to the Planning Commission to review the Ordinance language.

Motion by Benak to have Miller take a request to the Planning Commission to review the use of temporary structures, seconded by Halstead, all approved. Motion carried 5-0.

Motion to adjourn by Lake, second by Miller, all approved. Adjourned at 7:53 p.m.

Respectfully submitted by  
Lois MacLean  
Recording Secretary