WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS

Whitewater Township Hal, 5777 Vinton Road, Williamsburg, MI 49690
231-267-5141 Phone

REGULAR MEETING

Thursday, January 22, 2026, 7:00 p.m.

CALL TO ORDER: Chairperson Garza called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

ROLL CALL: Secretary Hoeksema called Roll.

Present:
Roberto Garza, Chairperson
Richard Boyd, Vice Chair
Wendy Hoeksema, Secretary and Township Board Representative
Eric Gall, ZBA Board Member

A quorum was established.

Absent: None.

ALSO PRESENT:
Zoning Administrator Deb Graber
Recording Secretary Kay Held

SET/ADJUST AGENDA: No changes.

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Board Action: Ms. Hoeksema made a motion to approve the January 22, 2026, Agenda as presented. Mr. Boyd seconded the motion.
VOTE: YEAS: All. NAYES: None. Motion carried.

DECLARATION OF CONFLICT OF INTEREST: None.

PUBLIC COMMENT: None.

APROVAL OF MINUTES OF SEPTEMBER 25, 2025, SPECIAL MEETING: Amendments: Minor changes were noted.

Board Action: Ms. Hoeksema made a motion to approve the Minutes of the September 25, 2025, Regular Meeting as amended. Mr. Gall seconded the motion.
VOTE: YEAS: All. NAYES: None. Motion carried.

PUBLIC HEARING:

Public Hearing: Case #ZBA-2023-ZA; Docket Numbers 23-036775-AS & 371421:

Chairperson Opens Public Hearing: Mr. Garza asked for a motion to open the Public Hearing.

Board Action: Ms. Hoeksema made a motion to open the Public Hearing. Mr. Boyd seconded the motion.
VOTE: YEAS: All. NAYES: None. Motion carried.

Note: The Public Hearing opened at 7:08 p.m.

Chairperson Summarizes Procedures to be Followed: Mr. Garza stated the Public Hearing is regarding the above case number, Baggs Road variance request, unconditional withdrawal of application.

Applicant Presents Request:

Mr. Derek Van Solkema introduced himself via Zoom and is representing Baggs Partners, LLC. Baggs Partners, LLC is requesting the ZBA accept their written withdrawal request of the variance application remanded from the Michigan Court of Appeals.

He stated the withdrawal request is procedurally proper, the Court of Appeals vacated the prior ZBA's decision solely for inadequate factual findings and remanded for further consideration, returning the application to a pre-vote status. He cited Roberts Rules of Order as well.

Memorandum from the Township's attorney confirms the applicant retains initial control over their request and that variances are granted only at the property owner's request. It would be inefficient and contrary to Section 8 of the Ordinance to continue the process as they no longer seek the variance.

Accepting the withdrawal ends the matter, avoids re-litigation and conserves ZBA and Township resources. Any objections must demonstrate specific legal prejudice or damage to a third party's interest if withdrawal is granted. No substantive objections have been filed, nor is there any evidence that granting withdrawal would impair legal or property rights for objectors of the variance request. Time and expenses of prior appeals are not sufficient grounds to deny the request. Approving it leaves all parties without prejudice and promotes efficiency for all involved.

The original application was filed in June, 2023; however, they no longer require or desire the variance for any purpose on the property.

Continuing to litigate serves no practical purpose for Baggs Partners, LLC, the Township or interested parties. Withdrawal provides finality after three years of proceedings.

For these reasons, and consistent with the Township attorney's memorandum, Baggs Partners, LLC, asks the ZBA to accept the withdrawal of the variance application and adopt a Resolution or order reflecting so, with the appropriate findings that it is procedurally proper and no demonstrated prejudice exists.

Township Zoning Administrator Presents Summary:

2 Zoning Administrator Deb Graber reported the Public Hearing was noticed in the Traverse City Record Eagle on 1/6/26 and notice mailed to all properties within 300' on 1/5/26. Attorney Matt Kuschel from Fahey Schultz, representing Whitewater Township, will be joining the hearing via Zoom.

The letter of withdrawal request, dated 11/5/25, from attorney Herring was received by the Zoning office on 12/19/25 and date stamped by the Township Clerk on 12/22/25.

ZA Graber provided a brief history of the case:

In spring, 2023, the Whitewater Township Board approved a motion deeming the parcel unbuildable, resulting in a variance request previously heard and approved by the Zoning Board of Appeals in 8/23.

After the ZBA approved the variance request in 8/23, the Whitewater Township Board made a motion at a Special Meeting in 9/23 deeming the property buildable based upon the ZBA's decision.

In 6/25, the case escalated to the Michigan Court of Appeals and was remanded back to the ZBA for further explanation of its decision to grant a land division variance. The Court of Appeals' ruling stated "the ZBA provided insufficient factual findings on the five necessary elements to permit the judges to meaningfully review the ZBA's decision to grant a variance."

On 1/22/26, the Whitewater Township ZBA has before them a request from Baggs Road Partners, LLC, to withdraw their original variance request.

Attorney Matthew Kuschel, Fahey Schultz:

Whitewater Township Attorney Matthew Kuschel with Fahey Schultz Burzych Rhodes introduced himself via Zoom.

He noted the variance procedure is stated in the Land Division Ordinance, providing elements which must be met to grant a variance. However, a similar set of elements for a withdrawal is not present in the document. There is, however, a great deal of case law discussing situations where applications have been withdrawn in front of local bodies. Therefore, this situation is not unprecedented. The Public Hearing also lends itself to transparency for this request.

Mr. Kuschel noted the ZBA has been provided with the legal context using Michigan court rules and similar case law and parliamentary procedures. He does not believe there is a procedural issue for the ZBA to consider this request. Public comment supporting or opposing the matter is welcome.

He advised the ZBA to consider any tangible or factual damage if the application is withdrawn.

Correspondence Received:
ZA Graber received correspondence from:
-Quintessential Williamsburg
-Connie and Frank Hymore

Public Comment:
In the Township Hall: None.
Via Zoom: None.

Chairperson Closes Public Hearing:

Board Action: Mr. Boyd made a motion to close the Public Hearing. Ms. Hoeksema seconded the motion.
VOTE: YEAS: All. NAYES: None. Motion carried.

Note: The Public Hearing closed at 7:31 p.m.

Discussion Among ZBA Members:
Mr. Gall reiterated there were no Public Comments in the Hall or via Zoom and that there is a record of correspondence received from two parties. He has seen no evidence of any objection to accepting the withdrawal.

Secretary Hoeksema noted Findings of Fact:
- The property owner's request.
- There are no objections indicated.
- No interested parties have spoken.
- The withdrawal would not damage any third parties; there are no known contracts of which the ZBA is aware.
- Adjoining property owners have been noticed.
- The letter was procedurally correct.

The ZBA asked Mr. Kuschel if the Township had any comment. He responded the no representatives of Township Board has expressed any issue or presented additional facts for ZBA consideration on the withdrawal.

Attorney Kuschel offered sample Resolutions for ZBA consideration and, for the benefit of the ZBA and members of the public, read aloud the proposed Resolution to accept the request. Secretary Hoeksema's Findings of Fact will be added to the Resolution. Mr. Kuschel also explained portions of the document as it was reviewed.

Item 3 on the Resolution, "Objections from Interested Parties," will include an entry stating "No objections were made to withdrawing the application during the Public Hearing by either an interested party or other member of the public."

Clerk Hoeksema requested adding an additional section, "Other Findings," indicating letters of support accepting the withdrawal of the application were received from Quintessential Williamsburg and M/M Frank and Connie Hymore. The Hymores also requested the ZBA grant the request and that the Township Board also take action. Their specific requests are stated in their correspondence.

Mr. Kuschel reiterated the Findings of Fact as earlier presented by Secretary Hoeksema.

Board Action: Mr. Gall made a motion to adopt Resolution #2026-01 accepting the withdrawal request and dismiss the remand as moot, as discussed during the meeting. Ms. Hoeksema seconded the motion.
ROLL CALL VOTE: Boyd-Y, Gall-Y, Garza-Y, Hoeksema-Y. Motion carried.

OTHER MATTERS FOR REVIEW BY THE ZONING BOARD OF APPEALS:

Correspondence Received: None.

Zoning Board of Appeals Members: New ZBA Member Mr. Scott Trumbull, representing the Planning Commission, has been appointed to the Board. He will be serving at the next meeting.

Election of Officers:

Chair:

Board Action: Mr. Gall made a motion to nominate Mr. Richard Boyd as Chair of the Whitewater Township Zoning Board of Appeals. There were no other nominations. Mr. Boyd accepted the nomination. Ms. Hoeksema seconded the nomination.
ROLL CALL VOTE: Garza-Y, Gall-Y, Boyd-Y, Hoeksema-Y. Motion carried.

Vice Chair:

Board Action: Ms. Hoeksema made a motion to nominate Mr. Eric Gall as Vice Chair of the Whitewater Township Zoning Board of Appeals. There were no other nominations. Mr. Gall accepted the nomination. Mr. Garza seconded the nomination.
ROLL CALL VOTE: Garza-Y, Boyd-Y, Gall-Y, Hoeksema-Y. Motion carried.

Secretary:

Board Action: Mr. Boyd made a motion to nominate Ms. Wendy Hoeksema as Secretary of the Whitewater Township Zoning Board of Appeals. There were no other nominations. Ms. Hoeksema accepted the nomination. Mr. Garza seconded the nomination.
ROLL CALL VOTE: Boyd-Y, Hoeksema-Y, Gall-Y, Garza-Y. Motion carried.

2026 Meeting Schedule: The proposed 2026 ZBA Meeting Schedule was distributed prior to the meeting.

Board Action: Mr. Boyd made a motion to approve Resolution #ZBA-2026-02, the 2026 ZBA Meeting Schedule, as presented. Ms. Hoeksema seconded the motion.
ROLL CALL VOTE: Garza-Y, Boyd-Y, Gall-Y, Hoeksema-Y. Motion carried.

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Review of By-Laws: Minor revisions were discussed and clarified.

Board Action: Mr. Gall made a motion to accept the Whitewater Township Zoning Board of Appeals By-Laws as amended. Mr. Boyd seconded the motion.
ROLL CALL VOTE: Garza-Y, Gall-Y, Boyd-Y, Hoeksema-Y. Motion carried.

2026 Budget:
ZBA Members reviewed and discussed each area of the budget including actual costs of a ZBA meeting, applicant fees and training expense needs. All ZBA Members were in agreement in pursuing education and training, particularly as several are relatively new to the ZBA.

The following changes will be submitted to the Township Board:

Training: Increased to $1,000
Publishing: Increased to $750
Meals/Lodging: Increased to $500
Mileage Reimbursement: Increased to $500

Board Action: Ms. Hoeksema made a motion to amend the ZBA budget and present to the Township Board in the amount of $12,850. Mr. Boyd seconded the motion.
VOTE: YEAS: All. NAYES: None. Motion carried.

REPORT FROM PLANNING COMMISSION REPRESENTATIVE: None.

REPORT FROM TOWNSHIP BOARD REPRESENTATIVE – Ms. Hoeksema:
Ms. Hoeksema reported a public workshop, presented by MSUE, was held last night at Mill Creek Academy on the subject of Short-term Rentals. Attendance in-person was approximately 71, with 45 on Zoom.

She also informed the ZBA there have been several FOIA requests in the Township related to Zoning including training, zoning decisions, STR enforcement costs and others. This demonstrates an increased public interest in Zoning matters. She suggested ZBA Members keep up-to-date on events in Whitewater Township; the Township calendar is on the website.

REPORT FROM ZONING ADMINISTRATOR – ZA Deb Graber:
Zoning Administrator Graber's December 31, 2025, report was in the meeting packet. She additionally reported:

A hearing is scheduled for Monday, 1/26/26, regarding the Elk Lake Trail short-term rental suit. Township attorneys will be present at that hearing.

Ms. Graber noted that Section 3 of the ZBA By-Laws includes preparation of an Annual Report, to be submitted to the Township Board. She offered to provide data from Zoning activity. The fiscal year ends 3/31/26. Mr. Gall and ZA Graber will work together to prepare a draft Annual Report.

There is still one open seat on the Zoning Board of Appeals.

Regarding Rules and Procedures in the By-Laws, ZA Graber suggested the ZBA reconsider the layout of the Public Hearing to enable the Zoning Administrator to initially provide an overview of the application with the Applicant to follow. This might provide for more clarity. Currently, the By-Laws have it in reverse order.

PUBLIC COMMENT:

Ms. Vicki Beam (the ZBA allowed her comment by Zoom):
Ms. Beam thanked Chair Garza for his years of service to the ZBA and appreciates there are new Members on the ZBA.

She is uncertain if the Baggs Road issue is resolved and encouraged the ZBA to review the previous timeline of this matter. There is extreme pressure on the Township for development, and she hopes the Township's rural character is maintained.

She questioned why the attorney stayed online after the Public Hearing and whether the ZBA is being charged for his time for the entire meeting.

Ms. Roberto Garza:
Chair Garza remarked that this is his last meeting as Chair of the Whitewater Township Zoning Board of Appeals. He appreciates the many wonderful people he has met and with whom he has worked. He asked for a letter of acknowledgement from Township Clerk Hoeksema, who will provide that to him.

ADJOURNMENT:

Board Action: Mr. Garza made a motion to adjourn the meeting. Ms. Hoeksema seconded the motion.
VOTE: YEAS: All. NAYES: None. Motion carried.

The meeting adjourned at 8:29 p.m.

Submitted by: Kay Z. Held, Recording Secretary