

# Elk Rapids Township Zoning Board of Appeals

## Meeting Minutes – Tuesday, July 9, 2019 - Approved

The meeting of the Elk Rapids Township Zoning Board of Appeals was called to order at 3:00 PM at the Government Center, 315 Bridge St., Elk Rapids MI 49629.

**Roll Call/Present:** Julia Pollister Amos, Vincent Cooper, Dick Hults, Bob McCririe, Pug Sliger and Marshall Wright.  
*(Quorum Established)*

**Absent:** John Conrad

**Also Present:** Larry Nix, Zoning Administrator.  
**Audience:** James Postma and Dorance Amos.

**Statement of any conflicts of interest:** None.

**Adoption of Agenda:** Motion to adopt the July 9, 2019 meeting agenda.  
**M/S – Wright/Sliger** **MOTION CARRIED**

**Approval of Minutes:** Motion to approve the June 11, 2019 meeting minutes.  
**M/S – McCririe/Hults** **MOTION CARRIED**

**Public Forum:** None

**Public Hearing on ZBA No. 132:** James & Janet Postma owners of tax parcels 05-06-300-006-00 and 05-06-028-022-85 which are both lots of the Clearwater Point No. 1 Subdivision. (The principal parcel address is 10561 Shore Drive and the other parcel is a vacant lot). They are requesting a variance to construct an accessory building on the vacant lot which is not contiguous with their principal residence.

**The applicant/representative speaks on this request:** Mr. Postma addressed the Zoning Board of Appeals. A summary of his comments follows:

- Mr. Postma noted he has lived on Elk Lake for 19 years.
- Mr. Postma stated that if this variance is granted, he would agree to provide a deed restriction on both parcels.
- The applicant also reported that he has 6 letters of support from his closest neighbors who would be impacted the most by this structure.
- Mr. Postma added that if granted the variance, the lot would be cleaned up and the property would be enhanced.
- Mr. Postma provided new pictures to the ZBA members showing the large number of cattails (approximately 60' x 135') that continue to grow and multiply on his property.
- The applicant noted he believes the cattails and the wetlands, are special circumstances that limit him from putting up an accessory building on his property. Further noting, he did not cause or create this condition.

- Mr. Postma also distributed pictures of his neighbor's accessory building indicating he would like to build a similar structure on his lot.

**Committee Members ask applicant/representative questions:**

- Mr. Hults – Asked Mr. Postma if he was aware that a very similar case was brought before the ZBA years ago and was denied? Mr. Postma responded he was aware there was a denial, but wasn't sure if the circumstances were the same.
- Mr. Wright – Asked Mr. Postma what was on the east side of his property and how wet is the property next to where he wants to build? Mr. Postma responded there is land on the east side of his property, and his neighbors accessory building is on the west side. The property is wet in the spring, especially toward the road, and dry in the fall. He also reported Heidi Shaffer, (County Soil Erosion Officer) had surveyed the property ten years ago as Mr. Postma wanted to research if it would be a good location for a septic field in case his current field failed.
- Mr. McCririe – Noted from the pictures provided, Mr. Postma already has a structure in front of his home and has a garage. Mr. Postma confirmed this and noted the structure is 12' x 14'.
- Mr. Cooper – Asked Mr. Postma when he purchased the property across the street? Mr. Postma reported the property was included at the same time he purchased the house.
- Ms. Pollister Amos – Asked Mr. Postma if he knew he had wetlands when he purchased the property? Mr. Postma responded that he knew about the wetlands but did not know the Township Zoning Ordinance would prohibit him from building an accessory building on a property that was not contiguous with a principal building.
- Chairperson Amos further addressed the applicant's variance request with the following comments:
  - Granting this variance violates the current zoning ordinance.
  - The ZBA has to protect the zoning ordinance. If the ZBA doesn't protect the ordinance; it is no good.
  - Even though neighbors think this structure it is a great idea, it doesn't help to protect the ordinance.
  - The only way to change the ordinance restrictions is to amend the current zoning ordinance. If enough people believe the ordinance needs to be changed, they should contact the Township Planning Commission and go through the appropriate process to request that the ordinance be changed.
  - The ZBA is willing to grant variances in situations that are within the ordinance that might have to do with space allowances or setbacks; but not for variances that are strictly prohibited and violates the ordinance.

**Members of the public in attendance who want to speak in favor of this request.** None.

**Members of the public in attendance who want to speak in opposition to this request.** None

**Written Communications from the Public on this request.** Chairperson Amos reported

the Township received six letters from neighbors supporting this request, and two letters against granting this variance.

**Additional Discussion / Other Options for the Applicant:**

- Mr. Hults – Asked Mr. Postma if he considered adding to the existing accessory building currently on his property? Mr. Postma responded that because the location is close to his driveway, he has not considered making it bigger.
- Several ZBA Members asked Mr. Postma if he considered acquiring a small portion of the land right across the street from him? Mr. Postma responded that he had not looked into that option.
- Mr. Nix reported that he and the Township Assessor did contact the County to see if they would consider combining the two parcels owned by Mr. Postma. This option was denied because the parcels do not touch.

**MOTION/S Wright/Sliger**

**Move to deny the variance request to construct an accessory building on the lot where there is no principal building because the lot is not contiguous across the road to the property that's owned. It cannot be connected by a deed restriction and meet the terms of our zoning ordinance. There are no other special circumstances. To authorize this variance would be contrary to the purpose of the ordinance.**

**Roll Call Vote: Hults, Wright, Sliger, Amos, Cooper, McCririe, all voting YES to DENY variance. (6 Voting YES to DENY), (0 Voting NO). John Conrad is absent.**

**MOTION TO DENY VARIANCE REQUEST UNANIMOUSLY PASSED**

**Conclusion:** The Board thanked Mr. Postma for the time and effort he put into his presentation and suggested he look into some of the other alternatives discussed in this meeting.

**Old Business:** None.

**New Business:** None.

**Communications:** None.

- Mr. Nix reported there are no applications for the month of August and therefore, no ZBA Meeting is scheduled.

**Adjourn:**

**MOTION/S: Hults/Sliger**

**MOTION TO ADJOURN**

**Meeting Adjourned at 3:28 PM**

*(Meeting Minutes Approved 11-12-2019)*