

CHARTER TOWNSHIP OF WHITE LAKE
Approved Minutes of the Special Board of Trustees Meeting
March 11, 2020

Supervisor Kowall called the meeting to order at 6:15 p.m. He then led the Pledge of Allegiance. Clerk Lilley called the roll:

Present: Rik Kowall, Supervisor
 Terry Lilley, Clerk
 Mike Roman, Treasurer
 Michael Powell, Trustee
 Andrea C. Voorheis, Trustee
 Scott Ruggles, Trustee
 Liz Smith, Trustee

Also Present: Lisa Hamameh, Attorney
 Sean O'Neil, Planning Director
 Nick Spencer, Building Official
 Jennifer Edens, Recording Secretary

AGENDA

It was MOVED by Clerk Lilley, SUPPORTED by Treasurer Roman to approve the Agenda, as stated. The motion passed by voice vote (7 yes votes).

Supervisor Kowall indicated that before us tonight is a request for consideration regarding 10070 Elizabeth Lake Road by Matthew Sprader to discuss the Consent Judgment.

Richard Linnell, counsel for MacKenzie-Vita, 2804 Orchard Lake Road, Ste 201, Keego Harbor, MI. 48320. It is his understanding that there is a Consent Judgment that was entered into by the Township and his client several years ago. Recently his client began the work that was contemplated and permitted pursuant to the Consent Judgment and to a permit that was pulled, which is pursuant to submitted plans. He noted that the architect is present tonight to answers questions as well.

He stated that his client began construction of the improvements within the last ten-days and subsequent to starting the improvements a Stop Work Order was issued and claims were made that some of the improvements being made were not contemplated pursuant to the Judgment and/or permitted plans. It is their firm belief that the plans that were submitted demonstrate everything that his client planned to do and was in the process of doing. Those plans were the same plans that were referred to in the Consent Judgment, but to his knowledge were never contained as an exhibit to the Consent Judgment. The plans that he is referring to predate the Consent Judgment by years. It is the same architect that drew the plans originally.

He furthered that the plans that are referred to in the Consent Judgment are the same exact plans that were submitted to the Township and permitted. He furthered that his client is a very good citizen of the Township and wants to do this the right way and be an asset of the community. They want to walk out of here tonight with a resolution that allows his client to move forward.

Nick Spencer, Building Official. He clarified that this has nothing to do with anything past or political. He thanked Mr. Sprader for volunteering to stop work without an order being issued. The reason there was discussion last week is because there are certain parts of this project that exceed what the Consent Judgment allowed for. The main cause was that a Building Permit was for an alteration of an existing structure and what was being done was not an alteration it was a demolition of an existing building with the intent to reconstruct. If they continued to allow the work as it was being done, which according to the Consent Judgment stated no addition to the nonconforming structure, it would not be in accordance with the Judgment.

He continued that the Ordinance addresses projects that are taken past 100% of its SEV, must be looked at and addressed. A nonconforming structure cannot continue to be rebuilt. From the Building Department's standpoint, the proposed plan is a beautiful project and a great asset to the community, but a few things need to be addressed before moving forward. As with any other project in the Township it must go through the process that what is submitted meets the requirements of nonconforming. He furthered that the Department would need:

- Confirmation from the Board that construction of the building can continue down to the footings.
- Increase the nonconformity of the building.
- Confirmation from the Board of the approval of the additional proposed enclosed stairway.
- Signed and sealed letter from the architect confirming the results that the McDowell and Associates soil testing satisfies requirements.
- The area of acquiescence and use needs to be removed from the site plan unless quiet title is granted to Mr. Sprader.
- Resubmittal of the Building Application to include details of the whole project, including demolition.
- If new footings throughout the building are to be used and approved by the Board, updated plans to reflect the change.
- Updated plans that reflect changes, if any in doors, windows, and any other configurations changes that don't impact approval.
- Soil Erosion Permit submitted to the Township.

Matt Sprader. He believes there has been a misunderstanding. He has been trying to do this for twelve years and he finally got his permit. He believed that the Consent Judgment and prints within that is the work he could complete. Referencing a large set of prints, he noted that there are 10-foot walls (2x6x10). The existing walls are seven and half feet and completely rotted. The new roof could have never been supported by the existing walls. He recalls that he asked Mr. Spencer if there was anything else, he needed and was told he was good to go.

Last Wednesday, when visiting Mr. Spencer, Supervisor Kowall and Jason Hudson were present, and they indicated there was a problem and that he had gone too far. That he was only supposed to put a new roof on the building.

He indicated that a new roof could never be put on that building without redoing the footings and the walls. He truly thinks it was a misunderstanding from both parties. Again, referencing the large prints, he indicated he thought it would be this from day one and he thinks the Township thought he was just putting a

roof on. He doesn't know how the mix up happened, but here we are. He would rather this just go forward. He will work 100% with the Township. He was shocked when he was asked to stop the work.

Supervisor Kowall confirmed that there was a slight difference in the print that was submitted to the Building Department. He further asked what the extension beyond the original structure was. To which, Mr. Spencer indicated twelve feet. Mr. Sprader rebutted that it is ten-feet, two-inches. It was further discussed that Mr. Sprader is requesting the stairway be enclosed and that is without objection of Mr. O'Neil or Mr. Spencer.

Al Valentine, Architect. 24001 Orchard Lake Road, Farmington, MI. 48006. His office drafted the plans in discussion.

Supervisor Kowall noted that what we are looking to do here is try and understand what it is that we are doing and make sure we are all on the same playing field and that what is proposed to be done is what is truly being done.

PUBLIC COMMENT

Henry Storm, 10087 Lakeside Drive. He is the Oxbow Lake Homeowners Association Secretary (OLHA). He noted that Mr. Sprader came before the OLHA Board when he first started talking about the improvements. They asked him to bring in his plans, asked for resident comments, and then the OLHA Board recognized what he was trying to accomplish and found no variance from what he was trying to accomplish. He noted that they have been looking at said plans for several years now and that they even joke that the trusses are coming tomorrow.

He further read into the record a letter of support from the Association. In summary, the letter spoke of the history of the local businesses and the viability of Sprader's on the Lake. It furthered that Mr. Sprader opened his doors to the Association when they needed a meeting place and has been host to a great many community events. It spoke of other Township improvements that have resulted in an attractive community that increased value and provided more tax revenue. The letter closed with a hope that the Board will afford the owners of Sprader's on the Lake the same opportunity to enhance the neighborhood, increase property values, raise additional tax revenue for the Township and most importantly continue a local business enjoyed by past and present generations.

John Macbeth. He recognizes Sprader's on the Lake from fifty years ago when he used to ride his bike to the store to buy a candy bar. He noted that it has always been a viable place and that people enjoy going there. He was happy to see Mr. Sprader get involved and want to revitalize the building and bring it to a new standard and make it look more presentable to the environment we are trying to develop within the community. He hopes he can continue with his plans.

Jose Fanego, Danforth Street. He moved to White Lake twenty-seven years ago. He had begun a law career and he could only afford a little shack with a swayback roof that leaked like a sieve on Danforth, but he was on the lake and as happy as could be. He furthered that across the lake was another tiny shack with a swayback roof that leaked like a sieve – what was at the time Tubes. He worked the bucket brigade

in his home until he saved enough to put a new roof on. He got plans, they were approved by the Township. When they tore his roof off, they ran into surprises. He went to the Township and was provided support to find the right contractors and was ultimately allowed to replace and exterior wall that was compromised by years of water damage. He asks that this Board extend only the same courtesy he was extended in 1997. He ended up in his dream home. One of the things he loves so much about this community is that we can meet in conditions like this, with an open minded Board that wants to solve problems, and recognizes that as long as we are trying to improve the property and we have the means to do so in a reasonable time and ultimately bring things to code – we all deserve the support of this Board and he hopes you will do so.

Andrew Morrison, He lives next door to the bar and has never had any problems. Mr. Sprader has always helped him, including shoveling his walk. He has never had any problems and was happy to see him fixing up the bar. He indicated that Mr. Sprader is always doing improvements. He couldn't believe the Board would stop the work on this. He's been a great neighbor, give him a break.

Brian Cleary, Owner of Glass Fusion by You in Waterford. It has been a hard time for his business. He doesn't have a lot of money; they survive from basically his salary and his wife runs the business. They have a lot of problems with their building that have caused issues. He commends Mr. Sprader for wanting to fix the building. His building owner doesn't want to do anything, so they must do a lot of the work on their own. He hopes the Board will support Mr. Sprader.

Rick Walker, 10835 Oxbow Lake Shore Drive. He has been a White Lake resident since 2006. He has also been a recipient of variance from this same Board to add a garage and he hopes they extend the same support to Mr. Sprader. His facility is part of the community; a meeting place, gathering place, people go there to enjoy the ambiance and the lake. Sprader's is an important part of our community and the Spraders have been a very active part of our community.

Keith Marsh, 6310 Stonewood Drive. He too is a businessman, a contractor. He joins in and agrees that we need to improve our community. We don't have a lot of options in White Lake and Sprader's is a great place to go, it is fun, relaxing and affordable. It is a great thing for the community. He noted there aren't many places we can go and enjoy lake front. The Board needs to come to terms and make this happen, let it continue. We really need it; it is an improvement for the lake.

Bill Schultz, 2981 Ripple Way. He's been coming to White Lake for eight years now thanks to Sprader's on the Lake. He is a musician who plays the Sunday Fundays on the deck at Sprader's. He has witnessed many events, including fundraisers. He notes that it is a very vibrant thing for everyone. Sprader's has brought he and his wife to White Lake for 3.5 years. It offers so much to the community regardless of where you are from. He noted that a known fact is that if its your first time there, the first drink is on the house. Going forward, he thinks this will be a blessing to the neighborhood.

Jim McDonald, 1070 Porter Road. He has known Matt for ten years now. He first met him when he walked into his bar to play a game of Golden Tee and they have been friends ever since. He is now one of his best friends. He noted that Sprader's is the kind of place he can take his daughter on a Sunday. You can play

games with the kids at a table or the kids can fish off the dock. There is no other place around here where you can do that sort of thing. It has always been a great place for families to go.

Julie Macbeth, 59 Oxbow Lake Road. She has known Matt since he was a young boy. She has lived in White Lake for over thirty-years. In her years of knowing Matt she knows that whatever he has done, he has accomplished well and that he did it with the community in his mind so that everyone could enjoy themselves. She hopes that the Board, in their hearts give him the opportunity to not only to improve his place of business, but for all of us residents to keep going there to enjoy his company and those who attend there.

Supervisor Kowall asked Chief Keller to describe the Townships relationship with Sprader's on the Lake with regards to public safety issues, liquor violations, violations, anything that may be considered problematic. He asked for his interpretation as he has been here for many years of where it was to where it is.

Chief Keller noted that they have a good relationship and that the only problem is the parking, but that really isn't a concern of his. As far as he is concerned, they don't overserve. He couldn't recall situations with prior owners.

Supervisor Kowall noted that Matt doesn't put up with any funny business there. He noted that he hasn't received any complaints since he received the karaoke permit.

Trustee Voorheis – She asked Mr. Sprader why it has taken eight years to get to this point. To which he noted that it has been twelve years, as he submitted these plans twelve years ago. He has been asking every six months for twelve years and that he just received the permits.

Trustee Ruggles – He noted that the permit that Brent issued was issued from the set of plans Mr. Sprader referenced tonight. He finds it hard to believe that if Brent issued a permit and considered the plans that we would be unaware of what his intentions were. He further questioned of Mr. Spencer whether he told Mr. Sprader he was good to go.

Mr. Spencer noted that until three weeks ago he hadn't even looked at the plans referenced tonight. At that point he had some changes he wanted to make to some doors/windows, which he had no issues with.

Supervisor Kowall read a letter from Jeremy Macbeth, 365 Burgess Drive. His letter implores the Board to let the construction continue. This Township and many like it were built by small business owners and that we are standing here on the shoulders of those who came before us and wanted us to live the American dream. As a resident of many decades, and an owner of two local business, Triple J Ductwork and DunMor Metal Art, he would like to see Sprader's dream of developing his business and bettering the community come to fruition. Since Mr. Sprader has owned the bar, it has become a community hotspot that also supports community events. He further indicated that to Matt Sprader there is no such thing as strangers, they are just friends he hasn't met yet. He noted that in the political times and separations it would be a disgrace to take away a place where the community can come together. Sprader's on the Lake is a melting pot of the characters that are the backbone of our Township; we are nurses, lawyers, clerks,

plumbers – we are White Lake Township. He is certain that something can be negotiated to allow him to continue and allow a loved local business to continue.

Clerk Lilley asked Attorney Hamameh to speak briefly on nonconformity.

Lisa Hamameh – She stated that a legal nonconforming structure and use are two separate categories under the Township Zoning Ordinance. A legal nonconforming structure is a structure that was legal when it was built, but something happened, zoning changed which made the structure a legal nonconforming structure.

Under the Zoning Ordinance, a legal nonconforming structure can continue to operate provided certain conditions aren't met. The purpose behind legal nonconforming structures is to allow the business to continue despite the change in its legal status (i.e. Zoning). However, the zoning ordinance does have conditions in it where you might lose legal nonconforming status. The Zoning Ordinance list those conditions. The use of the property since the zoning changed from commercial to residential, which is a violation of the legal nonconforming use in addition to the structure. She notes that the Zoning Ordinance list three pages of what happens that triggers lose of legal nonconforming structure. One of which is demolition, if improvements exceed a certain percentage of the SEV of the structure. She noted in defense of Mr. Spencer that he put a stop work order because of that legal nonconforming issue and his interpretation of what is being done there, essentially a tear down and rebuild exceeded the scope under the legal nonconforming structure and use provisions of the Zoning Ordinance.

She stated that it complicates things that there is a Consent Judgment that was entered into years ago by a previous Board/Counsel, that allowed Mr. Sprader even though he had a legal nonconforming structure. It allowed him to add an addition, which is a second story. The plans that Mr. Sprader is referencing were drawn consistent with what was contemplated in the Judgment. Where there is disagreement is whether his actions in taking the building down exceeded the scope by removing the nonconforming status.

Clerk Lilley asked Ms. Hamameh to speak to that because he wanted the audience to know where some of the Board members were coming from at the time Matt had made a request of the Board. At that time, we had several nonconforming properties. We all agreed that the condition of Matt's roof was unsafe and that nobody wanted to put him out of business. He presented plans that had the second story that fit into the same blueprint of the building that was there already. He thinks the Consent Judgment indicated that Matt would have to prove the footings were sufficient to accommodate the new structure. The other item that is in controversy is the second story. He noted that when looking at the size of the property, the amount of parking spots, and knowing that part of the property was not owned by him, the Board felt imperative to allow him to do that. He personally agreed to the Consent Judgment to get him back in business and to have a nice-looking building.

The issue today is the living quarters of the second story. It increases the nonconformity by over 100%. Looking at the small piece of property, they would never allow that of anyone else. The ordinance doesn't waive any other ordinance requirements (i.e. sidewalks, landscaping, etc.). He appreciates Nick's concerns and the fact that he approached the Board with issues that could have become more complicated. He questions whether the sufficiency of the information obtained by the Building Department

as far as the footings were concerned, were sufficient to address the concerns of the ordinance itself. He felt strongly that the issues of the footings needed to be addressed. Once the footings are taken out of the building and redone, we are talking about a 100% redo of the existing and over 100% of the additional space. That was the concern of the Board and there were numerous discussions back then from the original consent judgment.

Al Valentine interjected that a soil engineer was onsite to test the soil from McDowell Associates and they came up with a soil capacity value that was greater than what is necessary. The concern is that the footings would have to go deeper. We would pin them, not remove them.

Nick Spencer indicated there was a discussion about the removal of or replacement of all footings. As he highlighted earlier, the letter from McDowell would be sufficient and the signed approval from the architect acknowledging would be sufficient.

Attorney Linnell commented regarding the adjacent parcel that is not currently owned by Mr. Sprader. He has been authorized by Mr. Sprader to move forward with a lawsuit for quiet title. He is confident that Mr. Sprader will own that property in the summer or fall.

Supervisor Kowall noted that the area of acquiescence could not be used.

Clerk Lilley clarified that Mr. Sprader has done a great thing for the community and that this is not personal, it is about complying with Township Ordinances.

Trustee Smith noted that she is here for resolution tonight. She has done a lot of research on this issue, spoke with past and present department heads and Board members regarding what the true intent was at that time. She is here for a positive resolution that is palpable for all. She supports local businesses as she has one herself. She thinks that we can work together to come up with a solution that is doable for all. For clarification she noted that she pulled records from May 3, 2018 from Mr. Valentine that indicated that underpinning would be necessary.

Treasurer Roman noted that he has read many ordinances and consent judgments in the Township and they are all up for interpretation. He likes to look at the spirit of what the consent judgment did, and in this case, he thinks if it simple, it was to build a better bar. He believes the intent of this Consent Judgment is to build a better, safer bar. He opined that no one in their right mind would have though you could add a dormer and a new roof on the existing walls - it wasn't going to happen. It is a little confusing because of the zoning ordinance, which this Board is not allowed to make an exception to. He believes we need to amend the Consent Judgment to get this project moving forward.

Trustee Powell identified that he was on the Board when the Consent Judgment was agreed to. His position is the same as Mr. Lilley's. The intent was to assist a local business and to make the building safe. He noted that the structure scared him. His intent then was to save the bar. There were several steps both in executive session and open to the public, plans were presented but he doesn't remember the plans being presented that Mr. Sprader has tonight, a small picture is what he recalls. The plans were sketchy, and the attorney made the Consent Judgment sketchy with a lot of room between the lines. He is thankful

everyone came out tonight as it is reassuring to him to see the support of local businesses. He feels there are three issues this Board needs to entertain tonight:

1. Politics – What is the political will of this Board to make it happen.
2. Legal Action
3. Practical Items – The construction drawings that the Building Department needs to make sure it is being properly constructed or built.

He added that changing the interior volume changes the use. It was every intent of the previous Board and the Consent Judgment to allow for an expansion of the nonconforming use. He noted that when you start tearing things apart, you find surprises and building departments deal with it. If it weren't for the Consent Judgment in this case the Building Department could have handled this easily without the Board's involvement. Nothing in the plans could be done with the ordinance. He noted that the Township was sued and to avoid a lengthy lawsuit, they agreed with Mr. Sprader and allowed for that building to be upgraded. Unfortunately, during construction, it was taken down so far that it prompted some reconsideration as to what is allowed. He agrees with Mr. Roman that this Board needs to direct counsel to allow for the expansion and rebuilding of this structure per the original Consent Judgment. He believes it should be put to the shape that can be used so that Mr. Sprader can support his family with. He doesn't think it is granting special treatment. He believes the Board is just making it a little more definitive as to what can or cannot be done. He supports a modified Consent Judgment with a provision that addresses the scope of the work needed. He noted that it is absolutely within the right of the Building Official to request drawings and certifications to ensure it is done properly. He noted that the Consent Judgment states certification that the footings can support, but we found that it can't – it needs to be addressed clearly to allow the construction to be built. Lastly, he stated that the building part of it is easy, the political and legal part is what we wrestle with.

Clerk Lilley asked Mr. Powell's opinion regarding the original discussions and the use of the second story. He doesn't recall that the previous Board approved the use of the second story as a living area. To which Mr. Powell indicated he remembers discussion but doesn't remember the specifics. However, it is in the Consent Judgment that the interior space be occupied by defendant or members of defendant's family.

Clerk Lilley recalls utilizing the space, but not a living space as the plans now indicate. He noted that using the second story as a storage area, in his mind didn't increase the nonconformity much, but a living area increases it over 100%.

Trustee Powell has no personal problem if the plans are still in there. He would have a problem with an apartment for the general public, but this language specifically prompts the need for a difference use and fire protection.

Trustee Ruggles indicated that it is shocking to him that Mr. Sprader has a building permit in his possession. It takes an enormous amount of information to get one. You bring in the plans, they mark them up and you bring them back. He indicated that in order to get a permit you shouldn't be without information. He doesn't understand how this situation could be. He furthered that even a soil erosion

request should have been provided prior to permit be granted. He declared it is surprising and that the Township should have those answers. He came here tonight with the sentiment that he is in support of seeing this through and making sure we can get this taken care of. He further believes it will be nice to have interpretation of the Consent Judgment because it is vague. Lastly, he indicated that having a permit, you would think it should be taken care of.

Supervisor Kowall noted that one man's ceiling is another man's floor regarding interpretation. He believes that we are defined as a community by the people in our history. Daily we lose much of what we were. Mr. Storm made a good point. He does not believe there is an issue of any great level that would off way allowing Mr. Sprader to continue. He declared that as you remodel the key word is "re", you may and generally do find more to deal with than you like, but plans are submitted and approved. He feels that Mr. Sprader should be able to move forward with this project if all the concerns of the Building Official are met. He sees no reason for this to not come to some accord to move forward.

Trustee Smith clarified that there were a lot of false narratives amongst the community as to what was happening here tonight. She wants to be supportive of Mr. Spenser as well. He paused for Board direction, which is what we are here for. There are a lot of wild accusations and she just wanted it for the record that all that is happening here is a pause for Board direction.

Lisa Hamameh understands that the Board would like to effectuate an amendment to the Consent Judgment, but she doesn't feel that she and Mr. Linnell have enough direction to do so. It would be her recommendation that this be treated for purposes of construction as a new build and code and ordinance requirements be complied with. She wants to confirm that the Board is comfortable with that being in the Consent Judgment.

She furthered that it needs to be discussed whether the Board is comfortable with the language in the Consent Judgment regarding the use of the second story, because now is the time. If you are amending the Consent Judgment you have the ability to amend it to reflect your desires. Additionally, the enclosed stairwell issue should be discussed regarding it not expanding the footprint of the building. However, if it is enclosed it is in fact expanding the footprint of the building. Finally, she thinks the Consent Judgment should address the area of acquiescence. Perhaps some language in the Consent Judgment that requires within a certain timeframe that Mr. Sprader acquire quiet title to the property or an easement or the ability to utilize the property or to not use it. This way the Township isn't essentially by inactivity allowing the use of someone else's property.

Attorney Linnell regarding the enclosed stairwell and occupancy of second story. It is not intended as an apartment and is not for rent. He believes the intent was to permit it to be occupied by whomever the owner is. If Mr. Sprader is to sell the property, they ask for consideration that it be whomever owns it.

Discussion ensued amongst several Board members regarding parking and permits.

Lisa Hamameh explained that procedurally litigation needs to be reinitiated to amend the Consent Judgment and if there is litigation you must approve an amended Consent Judgment.

She clarified that provisions will be put in the Consent Judgment that:

- This will be a new or rebuild that will be in compliance with code and ordinance standards as far as a rebuild is concerned at the determination of Mr. Spencer.
- The second story, the requirement is family/owner, office and apartment.
- Expansion of the footprint consistent with the plan here today and submitted to the Building Department.
- As for the area of acquiescence – langue that requires to either secure the lawful right to utilize that property, by title or easement, or not use the property.

Mr. Spencer wants to make it clear to the Board that the footings are more than likely coming out.

Treasurer Roman confirmed that Mr. Linnell is working on the area of acquiesance via quiet title.

Mr. Linnell anticipates clean title will be completed in as little as 120 days or within a year if resistance.

It was MOVED by Supervisor Kowall, SUPPORTED by Treasurer Roman, to allow an amendment of the Consent Judgment to allow the Supervisor to work with the Building Official and Township Attorney, to come to a resolve to allow the rebuild as required and the enclosure of the proposed exposed stairs with the expanded footprint required and family/owner/office/apartment on the proposed second floor. The MOTION PASSED by roll call vote (Kowall/yes, Smith/yes, Powell/yes, Voorheis/yes, Ruggles/yes, Roman/yes, Lilley/yes -he still has concerns with the living quarters up above because of the lack of property, lack of parking and other safety concerns).

ADJOURNMENT

It was MOVED by Supervisor Kowall, SUPPORTED by Treasurer Roman to adjourn. The MOTION PASSED by voice vote (7 yes votes).

The meeting was adjourned at 7:49 p.m.

I, Terry Lilley, the duly elected and qualified Clerk of the Charter Township of White Lake, County of Oakland, State of Michigan, hereby certify that the foregoing is a true copy of the March 11, 2020 special board meeting minutes.

Terry Lilley

Terry Lilley, Clerk
White Lake Township
Oakland County, Michigan