STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ANTRIM

ROBERT SLASKI,

Appellant,

v

BANKS TOWNSHIP,

Appellee.

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File No. 2026009575AV
HON. KEVIN A. ELSENHEIMER

Appellant Acting in Pro Per

Michael D. Hanchett (P80974)
Attorney for Appellee

DECISION AND ORDER ON APPEAL

Municipalities have no inherent power to regulate land use through the enactment of zoning legislation; instead, a local unit of government must be specifically authorized by the Legislature to exercise any zoning authority.[1] The Legislature has granted municipalities the power to exercise zoning authority through the Michigan Zoning Enabling Act.[2]

Timberlane Terrance is subdivision plat in Banks Township, Antrim County, Michigan. Timberlane Terrace is located in a Conservation/Recreation district, where land uses are intended to promote the proper use, enjoyment and conservation of water, land, topography and forest resources.[3] The Banks Township Zoning Ordinance does not typically permit a second dwelling on a residential parcel where the principal use is a dwelling.[4] However, on May 12, 2026, the Banks Township Planning Commission approved amending the Ordinance to allow accessory dwelling using as permitted uses in certain zoning districts, including Conservation/Recreation

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[1] *Whitman v Galien Twp*, 288 Mich App 672; 808 NW2d 9 (2010).
[2] *Id*; MCL §125.320 *et seq*. The Court is the principal author of the Act. However, any application of the Act by the Court is based on applicable appellate authority versus any knowledge the Court may have regarding the intent of the Act.
[3] Banks Township Zoning Ordinance §6.02 et seq; Ordinance §6.02.1.
[4] Ordinance §4.25.

districts.[5]

Robert Slaski (hereinafter "Appellant") owns Lots 27 and 28 of the of the Timberlane Terrance plat.[6] Appellant's "lot of record," commonly known as 13493 Timberlane Drive, is considered a "zoning lot."[7] A "zoning lot" is a contiguous tract of land which, at the time of filing for a zoning permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership.[8] Although Appellant owns Lots 27 and 28, they have been treated as one parcel with a single tax identification number by Antrim County.[9]

On January 16, 2026, Appellant filed a Zoning Permit Application for a "garage dwelling unit" with Banks Township. On February 18, 2026, the Banks Township Zoning Administrator denied the Application Permit because in Conservation/Recreation districts, each parcel is limited to a single dwelling unit. Appellant then filed an application with the Banks Township Zoning Board of Appeals. Notably, the application indicated it was limited to an "appeal from a determination by the Zoning Administrator." The Banks Township Zoning Board of Appeals (hereinafter the "ZBA") has the power to hear and decide appeals decision or determination made by the Zoning Administrator, variance requests, requests to extend or resume a nonconforming use and requests for interpretation of the zoning ordinance.[10] In exercising these powers, ZBA may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.[11]

Appellant's application was considered at two separate meetings on March 19, 2026 and March 30, 2026. At the March 30, 2026 meeting, Township Counsel noted that Appellant did not request interpretation of the zoning ordinance in his ZBA application and that the ZBA could only

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[5] An accessory dwelling unit is a residential dwelling unit located on the same property as a single-family dwelling and constructed as an accessory use to the single-family dwelling. Ordinance, Article III.

[6] A "lot" is the parcel of land occupied or to be occupied by a use or building and its accessory buildings or structures, together with such open spaces, minimum area and width, as set forth in the Zoning Ordinance. Ordinance, Article III. Appellant's dwelling is primarily located on Lot 28, but partially extends onto Lot 27. Appellant also owns a 2/87th interest in the Timberlane Terrace private park.

[7] "Lot of record" is a parcel of land defined by a legal description and recorded with the Antrim County Register of Deeds. Ordinance, Article III.

[8] Ordinance, Article III.

[9] See Tax Id 05-01-325-027-00.

[10] See Banks Township Zoning Ordinance, Article X *et seq*.

[11] Ordinance §10.08.

consider the Zoning Administrator's permit denial. On April 1, 2026, the ZBA affirmed the Zoning Administrator and denied the appeal.

Subsequently, on April 21, 2026, Appellant filed a Claim of Appeal in the Circuit Court. The Court heard oral argument from the parties on July 14, 2026, and took the matter under advisement. On July 23, 2026, Appellee filed a Supplemental Brief on Appeal and Appellant filed a Response to Appellee's Claim of Mootness.[12] After further review, the Court now issues this written decision and order for the reasons stated herein.

The scope of a circuit court's review of an administrative decision is governed by the Michigan Constitution.[13] Judicial review of administrative decisions involves a review of the whole record, not just those portions which support the agency's findings.[14] Further, judicial review of decisions, findings, rulings and orders of an administrative agency/officer includes, "as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and 'substantial evidence' on the whole record."[15] 'Substantial evidence' is that which a reasonable mind would accept as adequate to support a decision, being more than a mere scintilla, but less than a preponderance of the evidence.[16]

An administrative decision is supported by 'substantial evidence' when the inferences made were legitimate and supportable.[17] When reviewing the decision of an administrative agency for substantial evidence, a court should accept the agency's findings of fact if they are supported by that quantum of evidence.[18] A court will not set aside findings merely because alternative findings also could have been supported by 'substantial evidence' on the record.[19] Appellate

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[12] On June 19, 2026, Appellant filed a Zoning Permit Application for a "garage dwelling unit." On June 30, 2026, the Zoning Administrator determined that the proposed use was permitted as an accessory dwelling unit.

[13] *Hanlon v Civil Serv Comm*, 253 Mich App 710, 716; 660 NW2d 74 (2002). Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located, and the court shall review the decision to ensure that it: (1) complies with the constitution and laws of the state; (2) is based upon proper procedure; (3) is supported by competent, material and substantial evidence on the record and (4) represents the reasonable exercise of discretion granted by law to the zoning board of appeals. MCL §125.3606.

[14] *West Ottawa Education Ass'n v West Ottawa Public Schools Bd of Ed*, 126 Mich App 306, 313; 337 NW2d 533 (1983). Although review if not de novo, it entails a degree of qualitative and quantitative evaluation of the evidence considered by the agency.

[15] Mich Const 1963, art 6, § 28.

[16] *St. Clair Intermediate School District v Intermediate Education Ass'n/Michigan Education Ass'n,* 218 Mich App 734, 736, 555 NW2d 267 (1996), aff'd 458 Mich 540 (1998).

[17] *In re Payne,* 444 Mich 679, 690–691 n 8; 514 NW2d 121 (1994).

[18] *Id.* at 692.

[19] *Id.* at 690. The reviewing court should not invade administrative fact finding by replacing an agency's selection between two reasonably differing views. *Romulus, infra* at 63.

review of the agency decision does not determine if the evidence preponderates one way or the other, but determines if the evidence justifies the findings as a legitimate inference from the facts proved.[20]

An agency's decision that violates a statute or constitution, exceeds the statutory authority or jurisdiction of the agency, is made upon unlawful procedures resulting in material prejudice or is arbitrary and capricious is a decision that is not authorized by law and must be set aside.[21] An agency's decision is arbitrary and capricious if it: (1) lacks a determining principle; (2) reflects an exercise of will or caprice without acknowledgment of principles, circumstances, or significance; or (3) reflects an unreasoned, freakish, whimsical or humorous outcome.[22] Although deference is generally given to an agency's construction of statute or administrative rule with which it is charged with administering, this deference does not permit the reviewing court to abandon its responsibility to give meaning to the plain language of statutes and administrative rules.[23] An agency's interpretation will not be given deference where the language of the rule is unambiguous or the agency's interpretation is clearly wrong.[24]

Ordinance §4.03 states that no lot may contain more than one principal structure or use and, as noted by the ZBA, Ordinance §6.01.2 has been interpreted as allowing one principal residence per parcel.[25] Further, under Article III, a "zoning lot" is a contiguous tract of land which, at the time of filing for a zoning permit, is designated by its owner as a tract to be used, developed, or built upon as a unit, under single ownership.[26] In 2006, Appellant's predecessor in interest filed for a zoning permit to construct an addition on the residence, which at the time was located entirely on Lot 28.[27] The proposed addition expanded the dwelling so that a portion would be constructed on Lot 27. In seeking the zoning permit, Appellant's predecessor treated Lots 27 and 28 as a unit, under single ownership. The ZBA determined that Appellant's predecessor had treated Lots 27

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[20] *In re Payne*, at 690.
[21] *Romulus v Dep't of Environmental Quality,* 260 Mich App 54, 64, 678 NW2d 444 (2003).
[22] *VanZandt v State Employees' Retirement System,* 266 Mich App 579, 584–585, 701 NW2d 214 (2005).
[23] *Id.*
[24] *Id.* Municipal ordinances are interpreted and reviewed in the same manner as statutes, therefore, the goal of construction and interpretation of an ordinance is to discern and give effect to the intent of the legislative body.
The most reliable evidence of legislative intent is the language of the ordinance itself and the words used must be given their plain and ordinary meanings. Terms that are not defined must be given their plain and ordinary meanings and it is appropriate to consult a dictionary for definitions. *City of Grand Rapids v Brookstone Capital, LLC*, 334 Mich App 452; 965 NW2d 232 (2020).
[25] See ZBA Meeting Minutes, March 19, 2026.
[26] Ordinance, Article III.
[27] On information and belief, Jack Bodis, was the owner of Lots 27 and 28 in 2006.

and 28 as one "zoning lot" for the purposes of constructing an addition and that 13493 Timberlane Drive has been considered a single parcel, with a common legal description since the expansion. Specifically, 13493 Timberlane Drive is legally described as "Lot 27 Exc the N 10 Ft; also Lot 28 and a 2/87th int in private park of Timberlane Terrace Sec 26 T32N R9W," by the Antrim County Register of Deeds.[28] The ZBA concluded that Appellant's Zoning Permit Application to construct a second dwelling was properly denied because the Ordinance permits a single dwelling unit per parcel.

In reaching this conclusion, the ZBA relied on definitions provided by the Ordinance, including "zoning lot" and "lot of record," the legal description of the property recorded with Antrim County, the historical treatment of the property as a single parcel, the dwelling being located on both Lots 27 and 28 and the expectations of planning and zoning. Here, the ZBA made findings of fact using 'substantial evidence' where the inferences made were legitimate and supportable.[29] While Appellant disputes the Zoning Administrator and ZBA's interpretation of the Ordinance, the factual findings of the ZBA are entitled to deference.[30] The Court will not set aside findings merely because alternative findings also could have been supported by substantial evidence on the record.[31] Therefore, the Court finds no evidence that the ZBA's decision was not authorized by law.

In conclusion, the Court finds that the actions of the ZBA complied with the constitution and laws of the State of Michigan, were based on proper procedure, were supported by competent, material and substantial evidence on the record and represented a reasonable exercise of discretion. For these reasons, the Court affirms the ZBA's affirmation of the Zoning Administrator's determination.

IT IS SO ORDERED.

08/06/2026
02:46PM

KEVIN A. ELSENHEIMER, CIRCUIT COURT JUDGE, P49293

HONORABLE KEVIN A. ELSENHEIMER
Circuit Court Judge

[28] See Legal Description for Parcel ID #05-325-027-00 at <https://www.bsaonline.com/sitesearch/propertydetails>
[29] *In re Payne, supra.*
[30] *Pegasus Wind LLC v Tuscola Co.*, 513 Mich 35; 15 NW3d 108 (2024).
[31] *Id.*