

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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JAMES J. JOHNSON and CAROL ANN  
JOHNSON,

UNPUBLISHED  
October 26, 2001

Plaintiffs-Appellants,

V

No. 224891  
Calhoun Circuit Court  
LC No. 99-000510-AZ

CLARENCE TOWNSHIP, JOHN GRIGGS, and  
SUZANNE GRIGGS,

Defendants-Appellees,

and

STEVE ROLAND,

Defendant.

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Before: K.F. Kelly, P.J., and White and Talbot, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I agree that the circuit court did not err in concluding that the language in the zoning ordinance regarding the setback requirement was ambiguous and in upholding the decision of the zoning board of appeals. I respectfully dissent from the majority's conclusion that the circuit court erred in concluding that the deed restrictions were also ambiguous and did not clearly forbid the construction of a second garage.

The majority observes that the restriction uses the words "garage and boathouse excepted," rather than the plural, "garages and boathouses excepted." It is, however, equally germane to observe that the restriction also does not use the words "one garage and one boathouse excepted" or even "a garage and a boathouse excepted." I do not view the use of the singular in this context as dispositive.<sup>1</sup>

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<sup>1</sup> At least with respect to statutory construction, the singular embraces the plural, and the plural embraces the singular. MCL 8.3b.

The provision can fairly be read to be directed toward assuring that 1) no building be used as a dwelling for more than a single family, 2) only one building be erected on a lot, excepting garage and boathouse buildings, and 3) that no building, other than garage and boathouse buildings, shall be used other than as a single family residential dwelling. So viewed, the intent was to confine the use to single family residences and to assure that only one such residence be built on each lot. The question whether more than one boathouse or garage is permitted on a lot is a separate question. Similarly, the restriction is at best ambiguous regarding whether a lot can contain only a garage or garages, and no dwelling house. Clearly, it was contemplated that some buildings, such as garage and boathouse buildings, be used other than as single family dwelling houses, and the restrictions do not expressly state that no garage or boathouse may be constructed on a lot unless it also contains a single family residence.<sup>2</sup>

I would affirm.

/s/ Helene N. White

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<sup>2</sup> To the extent plaintiffs argue that lot 38 was improperly split, I conclude that the claim is barred by laches, as the split occurred approximately thirty-three years ago. To the extent they argue that the southern part of lot 38 never became part of lot 34, I agree, but do not find the issue dispositive.