

Order

Michigan Supreme Court
Lansing, Michigan

November 22, 2023

Elizabeth T. Clement,
Chief Justice

165878

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

LINDSEY DEZMAN and JON GEIGER,
Plaintiffs-Appellees,

v

SC: 165878
COA: 360406
Oakland CC: 2021-190703-AV

CHARTER TOWNSHIP OF BLOOMFIELD and
CHARTER TOWNSHIP OF BLOOMFIELD
BOARD OF ZONING APPEALS,
Defendants-Appellants.

On order of the Court, the application for leave to appeal the June 1, 2023 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals holding that the plaintiffs were not required to seek a variance and permission to keep chickens in a chicken coop on their property. The zoning ordinance stated what activities are permitted at the one-family detached dwelling on plaintiffs' property: accessory uses and accessory structures customarily incidental to one-family detached dwellings. Zoning Ordinance § 42-3.1.3(B)(i) and (vi). "Under the ordinance which specifically sets forth permissible uses under each zoning classification . . . absence of the specifically stated use must be regarded as excluding that use." *Pittsfield Twp v Malcolm*, 375 Mich 135, 142 (1965). We REMAND this case to the Court of Appeals for consideration of whether the Oakland Circuit Court erred in affirming the decision of the Charter Township of Bloomfield Zoning Board of Appeals to deny the plaintiffs' request to keep chickens in a chicken coop on their property.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 22, 2023

Clerk