STATE OF MICHIGAN

COURT OF APPEALS

ALFRED POSA, MARY LOU POSA, TANYA PADO, RONALD MALEC, and LINDA MALEC,

Plaintiffs-Appellants,

v

CHARTER TOWNSHIP OF NORTHVILLE,

Defendant-Appellee,

and

MEADOWBROOK COUNTRY CLUB,

Intervening Appellee.

UNPUBLISHED
April 18, 2024

No. 364349
Wayne Circuit Court
LC No. 22-008809-AA

Before: O'BRIEN, P.J., and MURRAY and MALDONADO, JJ.

PER CURIAM.

In this zoning dispute, plaintiffs appeal by leave granted[1] the circuit court's order affirming the decision of the Northville Zoning Board of Appeals ("ZBA") approving defendant's (the "Township") grant of special land use to intervenor, Meadowbrook Country Club ("MCC"). We affirm.

I. BACKGROUND FACTS AND PROCEDURAL HISTORY

Plaintiffs reside in the three homes on Wintergreen Circle in Northville, Michigan. MCC operates a golf course, which abuts the properties along Wintergreen Circle, and MCC purchased the fourth residential lot on the street. MCC proposed constructing a new maintenance building

[1] *Posa v Charter Twp of Northville*, unpublished order of the Court of Appeals, entered June 7, 2023 (Docket No. 364349).

for its golf course on an area of land made up of the purchased former residential property and land it owned to the east. Prior to any demolition or construction, this land contained the house at the former residential property, a wood pile, and a small maintenance building that MCC planned to replace with a larger facility. Farther east, situated along Meadow Court, was another maintenance building that MCC planned to replace with the new structure.

The parties do not dispute the MCC properties at issue are in an R-1 Township zoning district, for single-family residential use. MCC applied for a special land use approval to construct the new 16,100 square-foot maintenance facility at the far west end of its property, partially located on the former Wintergreen Circle residential property. The Township's Planning Commission considered MCC's application at a public hearing and unanimously decided to postpone the action, "to give the applicants time to review commentary from the public and the Commission regarding this request." MCC's plans were considered again by the Planning Commission at a public hearing. The meeting minutes noted plan modifications since the initial meeting, which moved the building, traffic, and lighting farther away from plaintiffs' homes. The Township Planner presented her review of the application, and also, input from the fire department, a lighting consultant, and a transportation engineer was considered. Plaintiffs opposed the project again, citing concerns about noise, the hours of operations at the building, safety, the appearance of the industrial-type building in a residential area, and disruption of the character of their neighborhood. Plaintiffs' attorney argued the planned building violated several applicable zoning ordinances. The Planning Commission voted unanimously to approve the special land use, subject to several conditions, many of which were attempts to address plaintiffs' concerns.

MCC's application for special land use, and revised site plan, were considered by the Planning Commission again seven months later. Plaintiffs continued to oppose the plan, despite the changes effectuated. The Township argued plaintiffs were not aggrieved and therefore lacked standing to challenge MCC's request and the corresponding decisions of the Planning Commission. The Planning Commission unanimously approved a resolution finding their conditions for special land use approval were satisfied. The Planning Commission continued to review details of the final site plan. The Planning Commission voted to approve the final site plan, subject to several additional conditions, involving lighting, parking, and landscaping, which required MCC to return for approval at the next Planning Commission meeting. MCC presented its site plan revisions addressing the second set of conditions to the Planning Commission, which unanimously found the additional conditions were met and approved the site plan.

Plaintiffs filed an appeal with the ZBA, arguing the Planning Commission's approval of the special land use was arbitrary and capricious, and based on erroneous findings of fact. Specifically, plaintiffs argued MCC's plans did not comply with accessory building zoning ordinances, and MCC's submittal did not comply with special land use request zoning requirements. A public hearing was conducted. The Township argued the accessory structure zoning ordinances plaintiffs were trying to impose were inapplicable to a maintenance building at an existing golf course, which was an accessory use, integral to the operation of a golf course. Additionally, the Township argued plaintiffs were not aggrieved parties, in part because they were not adjacent to the building site. The ZBA unanimously denied the appeal and found that plaintiffs were not aggrieved parties.

Plaintiffs appealed the ZBA's decision to the circuit court, on the grounds the ZBA's decision was arbitrary and capricious, was not supported by competent, material, and substantial evidence, deprived plaintiffs of their rights to due process, and was contrary to law. MCC moved to intervene, either as of right under MCR 2.209(A), or by permissive discretion under MCR 2.209(B). MCC argued, as an owner of the property at issue, and the applicant of the special use permit, it was entitled to intervene because it timely applied for leave, its interests would be affected by the outcome of the proceeding, and the Township did not adequately represent MCC's interests. The circuit court granted the motion to intervene. In the circuit court, plaintiffs argued they were aggrieved parties pursuant to the Supreme Court's holding in *Saugatuck Dunes Coastal Alliance v Saugatuck Twp*, 509 Mich 561; 983 NW2d 798 (2022). Plaintiffs also argued the Township did not comply with its ordinances in granting the special land use to MCC, because the building must comply with zoning requirements for accessory buildings, and MCC failed to meet zoning requirements for special use applications. The circuit court found plaintiffs were not aggrieved parties and could not challenge the ZBA's decision. The circuit ruled that, even if plaintiffs were aggrieved parties, the decision of the ZBA and the Planning Commission complied with the Township zoning ordinances, was not contrary to law, was neither arbitrary nor capricious, was supported as competent, material, and substantial evidence on the record, and was not an abuse of discretion.

This appeal followed.

II. STANDARD OF REVIEW

Whether a party has standing is a question of law reviewed de novo. *Mich Ass'n of Home Builders v City of Troy*, 504 Mich 204, 212; 934 NW2d 713 (2019). However, plaintiffs bear the burden of showing they have standing. *American Family Ass'n of Michigan v Michigan State Univ Bd of Trustees*, 276 Mich App 42, 48; 739 NW2d 908 (2007).

We review the interpretation and application of statutes and ordinances de novo. *Frank v Linkner*, 500 Mich 133, 140; 894 NW2d 574 (2017); *Great Lakes Society v Georgetown Charter Twp*, 281 Mich App 396, 407; 761 NW2d 371 (2008). The principles of statutory construction apply when construing an ordinance. *Norman Corp v City of East Tawas*, 263 Mich App 194, 206; 687 NW2d 861 (2004). "The role of [the] Court in interpreting statutory language is to ascertain the legislative intent that may be reasonably inferred from the words of the statute." *Mich Ass'n of Home Builders*, 504 Mich at 212 (quotation marks and citations omitted). "Statutory provisions must be read in the context of the entire act, giving every word its plain and ordinary meaning." *Driver v Naini*, 490 Mich 239, 247; 802 NW2d 311 (2011). Courts "may not pick and choose what parts of a statute to enforce" but "must give effect to every word of a statute if at all possible so as not to render any part of the statute surplusage or nugatory." *Sau-Tuk Indus, Inc v Allegan County*, 316 Mich App 122, 143; 892 NW2d 33 (2016). "If the statute's language is clear and unambiguous, we assume that the Legislature intended its plain meaning, and we enforce the statute as written." *Rouch World, LLC v Dep't of Civil Rights*, 510 Mich 398, 410; 987 NW2d 501 (2022); see also *Kalinoff v Columbus Twp*, 214 Mich App 7, 10; 542 NW2d 276 (1995).

We review a lower court's review of a decision of a ZBA de novo to determine whether the lower court "applied correct legal principles and whether it misapprehended or grossly misapplied the substantial evidence test to the ZBA's factual findings." *Olsen v Chikaming Twp*,

325 Mich App 170, 180; 924 NW2d 889 (2018), overruled in part on other grounds by *Saugatuck Dunes Coastal Alliance*, 509 Mich 561 (2022). "Substantial evidence is any evidence that reasonable minds would accept as adequate to support the decision; it is more than a mere scintilla of evidence but may be less than a preponderance of the evidence." *Barak v Drain Comm'r for County of Oakland*, 246 Mich App 591, 597; 633 NW2d 489 (2001). "The decision of a zoning board should be affirmed by the courts unless it is (1) contrary to law, (2) based on improper procedure, (3) not supported by competent, material, and substantial evidence on the record, or (4) an abuse of discretion." *Reenders v Parker*, 217 Mich App 373, 378; 551 NW2d 474 (1996); see also MCL 125.3606(1). A decision is an abuse of discretion when it is outside the range of principled and reasonable outcomes. *Elher v Misra*, 499 Mich 11, 21; 878 NW2d 790 (2016). An appeal of a ZBA decision is limited to the record made before the municipal body and nothing else. MCL 125.3606(1).

The Court must give deference to the agency's regulatory expertise and may not "invade the province of exclusive administrative fact-finding by displacing an agency's choice between two reasonably differing views." *S.T.C, Inc v Dep't of Treasury*, 257 Mich App 528, 539; 669 NW2d 594 (2003). We give great deference to the circuit court's and ZBA's findings, *Alosachi v City of Detroit*, 342 Mich App 252, 256; 994 NW2d 868 (2022), reviewing for clear error the ZBA's and circuit court's underlying factual findings, *Hayford v Hayford*, 279 Mich App 324, 325; 760 NW2d 503 (2008). A finding is clearly erroneous when, although there is evidence to support it, the appellate court on review of the entire record, is left with a definite and firm conviction a mistake was made. *Marilyn Froling Revocable Living Trust v Bloomfield Hills Country Club*, 283 Mich App 264, 296; 769 NW2d 234 (2009).

The way a zoning ordinance applies to facts is a question of law, which we review de novo. *Soupal v Shady View, Inc*, 469 Mich 458, 462; 672 NW2d 171 (2003); *Great Lakes Society*, 281 Mich App at 408.

> Where the facts relating to a particular use are not in dispute, the legal effect of those facts, that is, how the terms of the ordinance are to be interpreted in relation to the facts, is a matter of law, and the courts are not bound by the decision of administrative bodies on questions of law. [*Macenas v Michiana*, 433 Mich 380, 395; 446 NW2d 102 (1989).]

Finally, a lower court's decision whether to permit intervention is reviewed for abuse of discretion. *Auto-Owners Ins Co v Keizer-Morris, Inc*, 284 Mich App 610, 612; 773 NW2d 267 (2009). A decision is an abuse of discretion when it is outside the range of principled and reasonable outcomes. *Elher*, 499 Mich at 21.

III. AGGRIEVED PARTY

Plaintiffs argue that the circuit court erred by determining that plaintiffs were not aggrieved by the ZBA's decision to affirm the approval of MCC's special use. We agree.

Local units of government are granted authority to regulate land use and development through zoning under the Michigan Zoning Enabling Act, MCL 125.3101 *et seq*. *Maple BPA, Inc*

v Bloomfield Charter Twp, 302 Mich App 505, 515; 838 NW2d 915 (2013). MCL 125.3604 provides, in pertinent part:

> (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. . . . The zoning board of appeals shall state the grounds of any determination made by the board.
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> * * *
>
> (5) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. . . .
>
> (6) At a hearing under subsection (5), a party may appear personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. [MCL 125.3604(1) and (6).[2]]

MCL 125.3605 provides that "[a] party aggrieved by the decision may appeal to the circuit court for the county in which the property is located . . . ." MCL 125.3606 establishes the procedures for appellate review of a ZBA's decision, stating, in part:

> (1) 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. The

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[2] The Township's zoning ordinances are set out in Northville Code of Ordinances, § 170-1.1, *et seq*. Northville Code of Ordinances, § 170-41.3, states:

> Any person or entity aggrieved by a decision of the Township staff or Planning Commission may appeal the decision to the ZBA.
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> * * *
>
> E. The ZBA shall reverse, modify or refer back with findings a decision of the Township staff or the Planning Commission only if it finds that the action or decision appealed meets at least one of the following conditions:
>
> (1) Was arbitrary or capricious.
>
> (2) Was based on an erroneous finding of fact.
>
> (3) Constituted an abuse of discretion.
>
> (4) Was based on erroneous interpretation of this chapter. [Northville Code of Ordinances, § 170-41.3(E).]

circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of the state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

* * *

(4) The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires. [MCL 125.3606(1) and (4).]

Accordingly, the first requirement for a successful appeal is that it be brought by an aggrieved party.

Our Supreme Court recently outlined factors for determining who is a "party aggrieved" by a zoning decision, in *Saugatuck Dunes Coastal Alliance*, 509 Mich at 595.

First, the appellant must have participated in the challenged proceedings by taking a position on the contested decision, such as through a letter or oral public comment.

Second, the appellant must claim some legally protected interest or protected personal, pecuniary, or property right that is likely to be affected by the challenged decision.

Third, the appellant must provide some evidence of special damages arising from the challenged decision in the form of an actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community. [*Id*. at 595.]

The Court explained the third criteria in further detail:

We use "others in the local community" to refer to persons or entities in the community who suffer no injury or whose injury is merely an incidental inconvenience and *exclude* those who stand to suffer damage or injury to their protected interest or real property that derogates from their reasonable use and enjoyment of it. Factors that can be relevant to this final element of special damages include but are not limited to: (1) the type and scope of the change or activity proposed, approved, or denied; (2) the nature and importance of the protected right or interest asserted; (3) the immediacy and degree of the alleged injury or burden

> and its connection to the challenged decision as compared to others in the local community; and (4) if the complaining party is a real-property owner or lessee, the proximity of the property to the site of the proposed development or approval and the nature and degree of the alleged effect on that real property. [*Id*. at 595-596.]

The Court cautioned against finding concerns to be merely general in nature to avoid addressing the merits:

> It also remains true that *generalized* concerns about traffic congestion, economic harms, aesthetic harms, environmental harms, and the like are not sufficient to establish that one has been aggrieved by a zoning decision. But we caution courts and zoning bodies against an overbroad construction of allegations as mere generalizations to avoid addressing the merits of an appeal. While *generalized* concerns are not sufficient, a specific change or exception to local zoning restrictions might burden certain properties or individuals' rights more heavily than others. A party who can present some evidence of such disproportionate burdens likely will have standing to appeal under MCL 125.3605 and MCL 125.3606. [*Id*. at 597 (citations omitted).]

In a case considered by our Supreme Court post-*Saugatuck Dunes*, an airport authority argued it was an aggrieved party with respect to issuance, over its objection, of a "tall structure" permit for a windmill. *Tuscola Area Airport Authority v Mich Aeronautics Comm'n*, 511 Mich 1024; 991 NW2d 581 (2023). As evidence of the injury, the airport authority submitted Michigan Department of Transportation ("MDOT") reports to establish "the average visitor to the airport spends $262," and contended the loss of even one visit would establish a pecuniary interest. *Tuscola Area Airport Zoning Bd of Appeals v Mich Aeronautics Comm'n*, 340 Mich App 760, 779; 987 NW2d 898 (2022), rev'd in part 511 Mich 1024 (2023). This Court reasoned, because the number of visitors to the airport varies yearly, it was speculative to assert any alleged harm from the loss of visitors was because of the installation of wind turbines. *Id*. However, our Supreme Court remanded the case to the circuit court because it found "the airport authority has alleged (and provided evidence in support of its allegation) a concrete and particularized injury—that the turbines will result in a pecuniary loss to the airport." *Tuscola Area Airport Auth*, 511 Mich at 1024.

Applying the *Saugatuck Dunes* criteria to the instant case, plaintiffs have taken a position in the contested decision opposing the special land use approval with public comment and through their attorney at every stage of the decision. Plaintiffs have claimed protected property rights involving the use of their residential properties will "likely be affected" by the approval of MCC's project on the MCC land closest to their homes. *Id*. The only remaining *Saugatuck Dunes* criteria is:

> [T]he appellant must provide some evidence of special damages arising from the challenged decision in the form of an actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community. [*Saugatuck Dunes Coastal Alliance*, 509 Mich at 595.]

Among the evidence presented during the Planning Commission and ZBA proceedings was MCC's statements regarding operations of the new maintenance building: tractor-trailers would enter from Eight Mile Road and deliver to the east side of the building, arriving no earlier than 7:00 a.m. and no later than 10:00 p.m.; and maintenance vehicles would leave from the east side of the building beginning between 5:30 a.m. and 6:00 a.m. Though MCC also claimed maintenance operations at the golf course would not increase, the maintenance building specifications include a new driveway by which the tractors-trailers will enter the MCC property. This driveway is closer to plaintiffs' properties than Meadow Court, which provided access to the previous maintenance facilities. Further, though MCC characterizes the new maintenance building as mitigating the impacts of the maintenance operations by storing the equipment inside and providing for indoor starting of the machines, the maintenance equipment will be leaving from the new building, as early as 5:30 a.m. This was not the case before, because the maintenance area was spread over a larger area, centered farther from the residences.

Because plaintiffs cited increased noise, particularly early morning noise, from the tractor-trailers and maintenance equipment as likely burdens and presented evidence to support that this noise would be brought closer to their homes by the construction of the maintenance building adjacent to their small neighborhood, these concerns are not "mere generalizations," which cannot constitute special damage. *Saugatuck Dunes Coastal Alliance*, 509 Mich at 597. As our Supreme Court stated, courts should avoid overzealously concluding allegations are mere generalizations, and "[a] party who can present some evidence of . . . disproportionate burdens likely will have standing to appeal under MCL 125.3605 and MCL 125.3606." *Saugatuck Dunes Coastal Alliance*, 509 Mich at 597.

For these reasons, plaintiffs are aggrieved by the ZBA's decision and had standing to challenge it in the circuit court.

IV. ACCESSORY BUILDING OR ACCESSORY USE

Plaintiffs argue that the circuit court erred by analyzing the proposed maintenance facility as an "accessory use" as the term is used in the township's definition of "golf course." Plaintiffs contend that the proposed facility is an "accessory building" subject to additional zoning requirements. We disagree.

Resolution of this issue hinges entirely on the interpretation of provisions in the township's code of Ordinances. Northville Code of Ordinances, § 170.3.2 contains numerous regulations relevant to accessory buildings and structures. The term "accessory building or structure" is defined as follows:

> A subordinate building or structure, the use of which is clearly incidental to that of the principal building, structure or use of the subject parcel, and is a structure or use that is customarily associated with the principal use of the lot. Where an accessory structure is attached to a principal building, such accessory building shall be deemed a part of the principal building. Where two or more activities take place within a principal building, the accessory use shall be the use occupying the least square footage or generating the least amount of traffic or other external impacts. [Northville Code of Ordinances, § 170-44.1.]

The dictionary definition of the term "incidental," a term left undefined by the code of ordinances,[3] is "occurring merely by chance or without intention or calculation." *Merriam-Webster's Collegiate Dictionary* (11th ed). The use of the proposed facility is the maintenance of the golf course, and given the definition of "incidental," we disagree with plaintiffs' contention that maintenance is incidental to the operation of a golf course.

Rather, we agree with the circuit court that this proposed facility is an "accessory use." Northville Code of Ordinances, § 170-44.1 defines "golf course" as follows:

> A public or private area consisting of fairways, greens and rough that may include *a clubhouse and related accessory uses*, provided that all structures and activities shall be an integral part of the golf course. Further, all clubhouses, restaurants, pro-shop facilities, etc., shall be secondary in nature to the golf course and may not be continued if the principal golf course activity shall cease or become the minor activity of the facility. [Emphasis added.]

We deem a maintenance facility as being related to a clubhouse in that it is not part of the land upon which golf is played but it is important to the course's operations. Indeed, one could argue that the maintenance facility is more important than a clubhouse because golf cannot be played on a course that is not maintained.

Plaintiffs argue that, pursuant to Northville Code of Ordinances, § 170-25.2(s), "the only accessory use that is allowed [for golf courses and country clubs] is a driving range." This is not an accurate reading of the ordinance, which provides: "Driving ranges are permitted as an accessory use, provided it is not illuminated." The ordinance specifies that a driving range is an accessory use, but nothing in the language suggests that this is the *only* accessory use. Moreover, the language of § 170-44.1, referring to clubhouses and "related accessory uses" suggests that a clubhouse is an accessory use.

Therefore, the court properly analyzed the maintenance facility as an accessory use rather than an accessory building or structure.

V. SPECIAL LAND USE APPLICATION

Plaintiffs argue that the ZBA and circuit court erred by concluding that MCC complied with the requirements laid out in the relevant special land use ordinances. We disagree.

Plaintiffs allege that MCC failed to respond to the required special use standards. Northville Code of Ordinances, § 170-30.3(B) provides that an applicant for special land use must

[3] A dictionary may be used as an interpretive aid for undefined terms. *Bauer v Saginaw Co*, 332 Mich App 174, 193; 955 NW2d 553 (2020).

submit "[w]ritten responses to the special land use standards contained in § 170-30.4." Northville Code of Ordinances, § 170-30.4 provides:

> The Planning Commission shall consider the following standards when reviewing a special land use request:
>
> A. Compatibility with adjacent uses. The proposed special land use shall be designed and constructed in a manner that is harmonious with the character of the adjacent property and the surrounding area. The special land use shall not create a significant detrimental impact, as compared to the impacts of permitted uses.
>
> B. Compatibility with the Master Plan. The proposed special land use shall be compatible with and in accordance with the goals and objectives of the Township Master Plan and any associated subarea and corridor plans.
>
> C. Traffic impact. The proposed special land use shall be located and designed in a manner that will minimize the impact on traffic, taking into consideration pedestrian access and safety, vehicle trip generation, types of traffic, access location and design, circulation and parking design, street capacity and traffic operations at nearby intersections and access points.
>
> D. Impact on public services. The proposed special land use shall be adequately served by essential public facilities and services, such as streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, refuse disposal, water and sewerage facilities, and schools.
>
> E. Compliance with Zoning Ordinance standards. The proposed special land use shall be designed, constructed, operated and maintained to meet the intent of the zoning districts, and the site shall be able to comply with all applicable requirements of this chapter.
>
> F. Impact on the environment. The proposed special land use shall not unreasonably impact the quality of the natural features and the environment in comparison to the impacts associated with typical permitted uses.
>
> G. Specific special land use requirements. The proposed special land use shall comply with any specific requirements relating to a particular use.
>
> H. The Planning Commission shall also consider the following factors when reviewing a special land use:
>
> (1) The nature and character of the activities, processes, materials, equipment or conditions of operation typically associated with the use.
>
> (2) Vehicular circulation and parking areas.
>
> (3) Outdoor activity, storage and work areas.

(4) Hours of operation.

(5) Production of traffic, noise, vibration, smoke, fumes, dust, glare and light.

Contrary to plaintiffs' contentions, these matters were addressed in a letter submitted on May 28, 2021.

Moreover, the ZBA's conclusion that these requirements were satisfied was supported by competent, material, and substantial evidence. Regarding compatibility with adjacent uses, the facility abutted residential lots, but these lots were already adjacent to the course, and the facility, after revisions to the plan, was not going to be on the plot that previously had a house. There was no evidence suggesting that the facility would clash with the master plan or have a negative impact on local traffic. Regarding public services, the facility is to be accessible by public roads and is to be connected to the public sewer and water. Regarding zoning standards, the pavement is to be set back more than 70 feet even though only a 50-foot setback is required, and several feet of landscaping is to be installed to buffer the property lines. Regarding environmental impact, new trees are to be planted where vegetation is to be removed. Additionally, MCC is to continue complying with all special use requirements applicable to golf courses. Finally, MCC provided all of the information necessary to assess the additional considerations laid out in standard H.

Therefore, plaintiffs' arguments regarding compliance with zoning ordinances are without merit.

VI. INTERVENTION BY APPLICANT

Plaintiffs argue that the circuit erred by allowing MCC to intervene in plaintiffs' appeal from the ZBA's decision. We disagree.

MCR 2.209 addresses intervention and provides in relevant part:

> (A) Intervention of Right. On timely application a person has a right to intervene in an action:
>
> * * *
>
> (3) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

"The decision whether to grant a motion to intervene is within the trial court's discretion. The rule for intervention should be liberally construed to allow intervention where the applicant's interests may be inadequately represented." *Neal v Neal*, 219 Mich App 490, 492; 557 NW2d 133 (1996). Plaintiffs argue that MCC could not establish that the township would not adequately represent its interests. However, the stakes were clearly higher for MCC than the township because it involved its project on its property for its business. Given the higher stakes for MCC, the court

did not abuse its discretion by concluding that MCC might pursue the issue with more zeal than the township.

Plaintiffs also argue that MCC did not follow the proper procedure for requesting intervention. Pursuant to MCR 2.209(C)(2), a motion to intervene must "be accompanied by a pleading stating the claim or defense for which intervention is sought." Plaintiffs contend that MCC failed to meet this obligation; plaintiffs are correct. MCC did attach plaintiffs' claim of appeal, but a claim of appeal is not a pleading. MCR 2.110(A); *Houdini Props, LLC v City of Romulus*, 480 Mich 1022, 1022; 743 NW2d 198 (2008). However, this minor technical error does not warrant reversal. "An error does not require reversal if it was not decisive to the outcome of the case." *In re Williams*, 333 Mich App 172, 181; 958 NW2d 629 (2020). Additionally, a party is entitled to appellate relief only if failing to grant such relief appears to this Court to be "inconsistent with substantial justice." MCR 2.613(A). Because MCC's erroneous attachment of plaintiffs' claim of appeal had no bearing on the outcome of this case, reversal is not warranted.

Affirmed.

/s/ Colleen A. O'Brien
/s/ Christopher M. Murray
/s/ Allie Greenleaf Maldonado