WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS- SPECIAL MEETING
JUNE 11, 2020
7525 Highland Road
White Lake, MI 48383

Ms. Spencer called the regular meeting of the White Lake Township Zoning Board of Appeals to order at 6:01 p.m. and led the Pledge of Allegiance. Roll was called:

ROLL CALL: Debby Dehart
Mike Powell
Nik Schillack
Dave Walz – Vice Chair
Josephine Spencer –Chairperson

Also Present: Sean O'Neil, WLT Planning Director
Justin Quagliata, Staff Planner
Nick Spencer, WLT Building Official
Lisa Hamameh, Township Attorney
Hannah Micallef, Recording Secretary

Visitors: 1

Approval of the Agenda:
Mr. Walz moved to approve the agenda as presented. Mr. Schillack supported and the MOTION CARRIED with a voice vote (5 yes votes).

Mr. O'Neil informed Ms. Spencer that agenda item 5a under continuing business will not be heard this evening. The applicant called the Planning Department on Monday to remove themselves from the agenda. Ms. Spencer officially removed the case for Kim McFadden at 9120 Buckingham, White Lake 48386, also know as 12-14-280-014.

Ms. Spencer also stated that since the Buckingham case was the first one on the agenda, and the agenda was published in such a way that each case had a specific time slot, there would be a lull in the beginning of the meeting until the next scheduled case will be due to be heard.

Approval of Minutes:
Zoning Board of Appeals Meeting of February 26, 2020.

Mr. Walz moved to approve the meeting minutes of February 26, 2020 as presented. Mr. Powell supported and the MOTION CARRIED with a voice vote (5 yes votes).

New Business

a.)	Applicant:	Mike and Tia Kreps
	Location:	8447 Cooley Beach Drive White Lake, MI 48386 identified as 12-36-452-008
	Request:	The applicant wishes to construct a detached garage that requires variances to Article 3.1.6.E, R1-D Single Family Residential, for setback, Lot Width, and to Article 5.7, Accessory Buildings or Structures in Residential Districts, for both roof height and wall height.

Ms. Spencer noted for the record that 29 owners within 300 feet were notified. No letters were received in favor, 1 letter was received in opposition and 0 letters was returned undeliverable from the US Postal Service.

Property Description: 8447 Cooley Beach Dr, is a single family home zoned R1-D The home is located in the Cooley Beach sub on Cooley Lake. The home uses private well and septic.

Applicant's Proposal: The applicant had originally deviated from an approved building permit for an accessory structure. The result was the garage building that exceeds the height requirements for Article 5.7 Accessory Structures. After last November's ZBA denial, the applicant is back with a plan that is more consistent to the previous approved building permit. The proposal reduces the height of the building's walls by a foot.

Staff Report: The garage exceeds maximum building height for accessory structures. The ordinance allows for walls in accessory buildings to be 14' height. As constructed, this garage's walls are 19' tall. Total height of the structure is not to exceed 18' from mid peak of the roof; the garage as constructed has a roof height of 21' and is two stories tall, with 8' walls to the second story. The applicant has an interior staircase to the second story, the modified structure will have a 14' wall on one side and 18' on the other. The modified structure will also have a roof height of 20.5', which is a 1/2 ft reduction in the roof height.

While the existing structure was built in consistent with the approved plans and the ordinance, it will be altered to reduce the overall total and wall heights to be more consistent with Article 5.7.C Accessory Structures. The existing lot is a 50' lot, it was platted a long time ago, and is a legal non-conformity.

Mr. Klint Kesto, a representative for Mr. Kreps, spoke. Mr. Kesto said the structure was existing and then was modified. Mr. Kreps was looking to update the structure to make it more pleasing on the eye

DRAFT

as well as structurally stable. At that time (June 2019), the plans were approved. As Mr. Kreps was building, there was a slight deviation to the approved plans. There was then a stop work order placed on the construction, and Mr. Kreps went to the ZBA in November regarding these changes, and was denied at that time. Since then, Mr. Kreps has come back with multiple other architectural designs. Mr. Kesto and Mr. Kreps met with Township staff and the Township attorney to look at the updated plans, to see if any of them would be feasible to construct. The structure will not be used as a rental, and he is flipping the dormer from one side to another to accommodate any neighbor issues and the Township's request. This modification has been submitted. Mr. Kesto thinks after the discussions and revision, that this plan submitted will be more palatable.

Mr. Kreps said at the last meeting in November, none of his plans were acceptable. He thinks this last design was a compromise from everybody giving their input. The design lowers one side from 19' to 14' height, and the other side will be lowered as well to make it more appealing to the eye.

Mr. Kesto also said that a key part of the situation is that the original plans submitted in June 2019 were approved by the previous building official. Mr. Kreps did deviate from those approved plans, but as of now he came back to a compromise that can fit better than what was originally built.

Mr. Spencer noted that the original approval of these building plans by the previous building official still did not meet the ordinance requirements. The new design is basically right in line with the initial approval.

Ms. Spencer then opened the public hearing at 7:07 pm. She read one letter in opposition into the record.

Jim Schuster, 8453 Cooley Beach. Mr. Schuster lives at the property directly west from the property in question. He is concerned that the garage will eventually be turned into living space. Township guidelines limit wall height to prevent living space in accessory buildings. He is also concerned that water run off. With the 18' walls and shallow pitch, water blows off the roof of the garage and into his yard. There is a lot of cement, and since it cannot be absorbed, it runs off into the neighbor's properties. There have been comments made about the size of the garage and how it looks like similar to a house. There are similar structures that fall within the township guidelines in the neighborhood that are a good enough size.

Mr. Kreps read a letter of approval into the record, from Zachary Dieck at 8464 Cooley Beach Drive.

Terry Makaroff, 8421 Cooley Beach Drive. His concern is that if this variance is approved, it will start a trend with the other neighbors asking for structures like this in the future.

Ms. Spencer closed the public hearing at 7:14 pm.

Mr. Schillack emphasized again that he still believes this is a matter of integrity of the Township. If the Township approves something, we need to stand by it whether we like it or not. We approved these

DRAFT

plans, and the applicant did deviate. The applicant is now trying to go back and remedy this. The applicant did invest resources into what was initially approved. He is concerned about our integrity, and setting a precedence to changing minds after something have been approved.

Mr. Powell asked Mr. Spencer if the plans identify whether there will be water/or sanitary sewer extended to the building. Mr. Spencer said he has not seen it on the plans. Mr. Powell asked the same of Mr. Kreps, who said he does intend on bringing water with a spigot to wash cars. Mr. Powell asked how it would drain, Mr. Kreps said he would have to put in a drain but hasn't because he wasn't sure if he could. Mr. Powell said this would make an indication whether Mr. Kreps intent was to make the garage habitable. It can be drained with a leaching basin, and Mr. Powell said if he is going to support, no sanitary/sewer services needs to be a part of the motion.

Mr. Powell asked Mr. Kesto if the modified plans were truly requested by the Township. Mr. Kesto said that these were the plans they came up with, and deferred to Ms. Hamameh. Mr. Powell wanted to know if there was truth in the fact that the Township did request changes to the plan that might entice us to grant an approval. Mr. Kesto thinks it's more a discussion of what can be palatable and what can work within the guidelines of the prior approval. Ms. Hamameh stated that there was pending litigation, and in an effort to resolve the litigation for the time being, the meeting was coordinated to walk through the issues. It was discussed then how they might be modified to make it a lesser variance request and back in line with the initial approved site plan. As a result of that discussion, they submitted the new plan.

Mr. O'Neil added that the same request cannot be brought back to the ZBA. The applicant had an unsuccessful request, so it wouldn't make sense to bring back another request that was more imposing or in conflict of the ordinance. So instead, the new plan goes in the other direction, as the orientation was changed and the wall height was brought down, in effort to bring it closer into compliance.

Mr. Powell said it doesn't sound like the applicant is trying to use the garage as additional living space. He doesn't interpret this as an apartment or living space. It appears they have moved the high part to the west side of the building for more headway for the stairway, so it will be more useable. To mitigate this, they have dropped the roofline on the east side and brought it into compliance more. The concerns of the rain run off would be hard to demonstrate. Rain falls at the same rate no matter where it falls, and he acknowledged there is more impervious surface. However, none of the variances requested will add to the run off. It also appears that the new drawing is less obtrusive than the one presented to the ZBA prior. Mr. Powell believes it the applicant started off the build in good faith, with assuming the validity of the issued building permit. They did get carried away, but they brought it back within compliance of the previously approved permit. The structure may be larger than what the neighbors would like, but the variances requested now will reduce the intrusion of the existing structure.

Mr. O'Neil wanted to point out the concern about the living space, and that the motion can include restrictions to the garage being used as living space. If there is a concern about capturing run off, the

ZBA can put in a condition for gutters on the side of the homes to channel water, and have the downspouts connected to an underground drain which takes the water towards the lake and keeps it away from the neighbors.

Mr. Schillack moved to approve the variances requested by Mike and Tia Kreps for 8447 Cooley Beach Drive, identified as 12-36-452-008 in order to finish construction of a detached garage.

- **Variance #1 Article 5.7.C Wall height, permitted 14', request variance 4', end result of 18'.**
- **Variance #2 5.7.C Building height, permitted 18' mid peak, requested variance 2.5', end result 20.5'**
- **Variance #3 Article 3.1.6 Required lot width, permitted 80', requested 30', end**
- **result 50'.**

With the following conditions:

- **The upstairs space will not be used as living space,**
- **A gutter system will move the water away from falling toward neighbor's property.**
- **No sanitary sewer services will be extended towards the structure.**

Applicant will pull all necessary permits with the White Lake Township Building Department.

Mr. Walz supported, and the MOTION CARRIED with a roll call vote (5 yes votes):

DeHart: YES, because the applicant is now bringing the plans back to the original approval
Powell: YES, in full agreement with practical difficulty, and it has now been modified at or below the original approved plans
Schillack: YES, the applicant was initially approved, and it falls within the initial approval.
Walz: YES, it is an improvement over the existing structure and for the reasons stated.
Spencer: YES, there is a practical difficulty and the applicant is going back to the original plans which had a permit issued a year or so ago. It's reducing obtrusiveness and is an improvement to the area.

b.)	Applicant:	Creative Custom Builders 7655 Highland Road Ste 202 Waterford, MI 48327
	Location:	10126 Elizabeth Lake Road White Lake, MI
	Request:	The applicant wishes to construct a new home, with an attached garage, that requires variances to Article 3.1.5.E, R1-C Single Family Residential, for Front Yard setback, Lot Size, and Lot Width.

DRAFT

Ms. Spencer noted for the record that 23 owners within 300 feet were notified. No letters were received in favor, no letters were received in opposition and no letters was returned undeliverable from the US Postal Service.

Property Description: The property identified at 10126 Elizabeth Lake Road is zoned R1-C single family residential. The parcel is located on Oxbow Lake. The new home that is proposed to be constructed would utilize a private well for potable water and the Township's sanitary sewer system for sanitation. The parcel is non-conforming in both lot area and width.

Applicant's Proposal: The applicant wishes to obtain variances that would allow them to reconstruct a home and utilize the existing foundation. They wish to utilize the existing basement foundation on the hillside that is on their site. They have designed the home with a side-entry garage to provide more room for parking off of the road and allow vehicles safer forward access to the road when leaving the side-entry garage. The applicant maintains that the house is being placed consistent with that of the neighboring homes. They do not want to negatively impact their neighbor's views or drainage buy moving the location closer.

Planner's Report: The applicant wishes to obtain variances that would allow them reconstruct a home on this lakefront lot. The variances necessary are listed in the table below. Variances #2 and #3 pertain to the existing platted lot. Variance #1 requests a front yard setback of 16' where 35' is required, which results in a 19' variance.

Ms. Spencer asked that if the home has a side entry, would this become a safer way of building? Mr. O'Neil agreed, one of the concerns with front yard setback variances is the distance from the garage door to the traveled portion of the road. In this case, it ceases to be an issue because the door faces the side and there is extra driveway room to maneuver. In a situation where one is close to the road, it's preferable to be side entry because it gives the room and safety to pull out on to a main busy road. Elizabeth Lake Road sees somewhere north of 10,000 vehicle trips a day.

Ms. Dehart asked what the current setback on the home is now? Mr. Veileux said the existing portion of the house has a 29' setback currently. Mr. O'Neil stated that the home meets the setback, it's the garage that encroaches further out.

Mr. Jim Veileux was present to represent the applicants. Mr. Veileux is the builder and the next-door neighbor south west of the property in question. In order to update the house and turn it into a lifetime home, the plan is to keep the existing foundation, putting a new structure on top, and adding a small two car garage. That being said, it was designed specifically to be a side entry garage. He is proposing creating a wing in the back so when a car is pulled out, it can turn around and go forward. The best scenario would be to keep the footprint, remove some of the front that encroaches on the front yard setback, add the garage and make a safe ingress/egress.

Ms. Spencer opened the public hearing at 7:57 pm. No public wished to speak, and the public hearing was closed at 7:57 pm.

DRAFT

Mr. Powell wanted to point out that the applicant and builder represent the home could be moved closer to the lake, but there is practical difficulty for two reasons. Firstly, it makes sense to use the existing foundation, and it's important not to block the lakeview for the neighbors on both sides. The proposed garage is not different from homes in the area, so it would not be obtrusive either.

Mr. Walz MOVED to approve the variance requested by Creative Custom builders for 10126 Elizabeth Lake Road, identified as 12-27-226-015 in order to construct a new home. The variances requested are as follows:

- **Variance #1: Article 3.1.5 Front yard setback. Required 35', requested 19'. End result 16'.**
- **Variance #2: Article 3.1.5 Lot Area. Required 16,000 sq. ft, requested 15,894 sq. ft. End result 10,106 sq. ft**
- **Variance #3: Article 3.1.5 Required Lot Width. Required 100', requested 40', end result 60'.**

With the following conditions:

- **The roofline along the east side of the house be guttered and down spouted with a solid storm sewer system run towards the lake.**
- **Applicant will pull all necessary permits with the White Lake Township Building Department.**

Ms. Dehart supported the motion, and the MOTION CARRIED with a roll call vote (5 yes votes):

Dehart: YES, will improve the home and area, and the lot is a non conforming lot.
Powell: YES, for the reasons stated.
Schillack: YES, for the reasons stated.
Walz: YES, it will be an improvement over the existing conditions for ingress/egress, which will make it safer for the occupants pulled out on Elizabeth Lake Road.
Spencer: YES, there is a practical difficulty. This is a non conforming lot and using the foundation that is existing will eliminate the blocking view of the surrounding areas. The side yard entry into the garage is eliminating accidents and is safer.

DRAFT

c.) Applicant: James and Lauren Wardrop
7080 Oakley Park
West Bloomfield, MI 48323
Location: 725 Ranveen Drive
White Lake, MI 48386
Request: The applicant wishes, under Article 7.36,
Powers of Zoning Board of Appeals Concerning

Administrative Review and Variance, to appeal a determination of a Township Official regarding the interpretation of both the "basement" and "grade" definitions in the Zoning Ordinance.

Property Description: The property identified at 725 Ranveen Drive is a vacant parcel (a double lot) that is zoned R1-C single family residential. The parcel is located on Cedar Island Lake. Any home that is constructed would utilize a private well for potable water and a septic system for sanitation.

Applicant's Proposal: The petitioner wishes to appeal, under Article 7.36 of the Zoning Ordinance, a determination of a Township Official of both the "basement" and "grade" definitions of the Zoning Ordinance.

Planner's Report: The original interpretations, now under appeal, were made by Brent Bonnivier, former Building Official, and Jason Iacoangeli, former Senior Planner. There is also a denial letter that was issued from Nick Spencer, our current Building Official. The applicant's attorney has provided a lengthy packet of information for your review. Our report will be brief and include the communications to the applicant and the excerpts from the Zoning Ordinance. Most of these items are in the applicant's packet as well. Nick Spencer and I will be at the Zoom meeting and will be prepared to answer questions regarding this case and Zoning Ordinance 58. It is the opinion of both Nick and I that the original interpretations by Brent and Jason, as well as his own denial letter, are indeed correct.

Mr. Dan Artev was in attendance to represent the applicants. The applicant is asking the board to interpret the zoning ordinance and determine whether or not the plans submitted are indeed for a two story single family home (which is permitted by the zoning ordinance) or a three story home as the White Lake Building Department determined because of the way the basement is laid out.

Mr. Artev said the exterior elevations show rear elevations as well, which also gives a good view of what the basement construction would look like. The home looks like a standard two-story home with a basement. The basement as proposed is not a walkout. The Building Department told the applicants the basement is considered a third story in this instance, even though it is below ground. The applicants disagree and the zoning ordinance does require the basement to be 50% below ground to not count against the maximum story limit. To determine the measurement of where the story can be counted against the limit or not, the ordinance references the term "grade". This is where the applicants disagree with the Building Department. The applicants take the position that the grade should be measured from where the wall meets the ground from the actual building. The Building Department takes the position that the grade should be measured from the street level, which is lower than where the house wall meets the ground.

Mr. Powell stated a grade was missing from the site plan. On the back wall, the rear elevation of the house has no elevation given. Mr. Artev said the septic engineer prepared an average elevation for the

home, as well as elevations for basement floor and basement ceiling. Mr. Powell stated that the plans show the grade at each corner of the house, and the grade right in the middle of the back wall is the average between the two. Mr. Powell stated the grade elevations are the proposed topography on the site, which are not the elevations of the house. The elevations of the house are pictures of the architectural view of the home. Mr. Powell wanted to point out that the ground elevations of the house are not representative of what the site plan shows. The site plan shows a 4 1/2' grade change between the garage finished floor and the house. The grade around the house shows a more typical drop of 2', 2 1/2'. Any grade over 30", the front porch has to have railing around it.

Ms. Spencer opened the public hearing at 8:52 pm.

Ms. Spencer noted for the record that 29 owners within 300 feet were notified. No letters were received in favor, 2 letters were received in opposition and no letters was returned undeliverable from the US Postal Service.

Ms. Spencer read two letters in opposition from Pat and Tom Schwind, and Dave and Mary Schoengge, respectively into the record.

Mr. Powell asked the applicant to clarify that they are not requesting a variance this evening, but instead asking for a zoning ordinance interpretation from the ZBA. Mr. Artev confirmed this is what they were here for this evening.

Michelle McGee, 714 Ranveen. Ms. McGee stated that she lives across the street and is worried about flooding.

Mr. O'Neil clarified that this case is an appeal of an interpretation by a Township official.

With no further comment, Ms. Spencer closed the public hearing at 9:00 pm.

Mr. Powell stated that this is a difficult situation. The problem is that you have to establish a natural grade of a parcel before anything is started. There needs to be an established grade to interpret from. The ordinance interprets the impact of this lot based upon the perception of the road, or the right of way. That way, no artificial raising of the grade can be done. Mr. Powell stated the other problem is that the grade adjacent to the foundation wall. He has seen where applicants artificially raise the grade on up against the house with retaining walls. The Township's interpretation of the grade gives the applicant a break by assuming they have a 12" structural floor to hold up the first floor. The average grade has to be around 940 in order to even meet the applicant's definition. The proposed garage floor is even 4 ½ below the finished floor in order to squeeze the house in. The applicants are just above of what would be more than half of the basement below grade, in their interpretation. As for the walkout, the ordinance defines grade in order to establish the height of the building, not the grade around the structure or if it's a story. It's typical around a lake in that you see a full basement backfilled around three sides of a house. Our ordinance gives the applicant the ability to meet the grade definition of the ordinance all the way around, and even if they dropped to basement grade

with a height higher than the ordinance allows on one side, it is not considered a story. It is then considered a walk out basement. Our ordinance gives the homeowner as much leeway as possible, or else we would have houses up on mounds, with others below.

Mr. Powell stated there are two issues that prompted these actions from the applicants. First, the septic field permit issued by Oakland County Health Department requires the bottom of the septic field to be 4' above the ground water. This establishes the yard grade before anything is built above it. Secondly, the groundwater makes it so the basement elevation has to be established above the flood plain, and then everything else has to fit there after. There are no other basements on this peninsula because the grade has to be artificially raised to do so.

Ms. Dehart said she walked the site and did not see evidence of basements in any of the other homes in the area. She said the water table must be high there, this home also wouldn't fit with the other homes.

Mr. Schillack asked how many feet taller would this home be from the others in the area. Mr. Powell said this house could end up being 3/4 of story higher than the houses on either side. Mr. Spencer said affirmed that amount is accurate. The house to the west is a two story, the house on the east is a single story. This house could be 6'-8' higher than the two-story house to the west, making it much higher than the one on the east.

Mr. Powell MOTIONED that the Zoning Board of Appeals concurs with the interpretation made by the Township Officials in the case of James and Lauren Wardrop, regarding 725 Ranveen Drive because the ordinance defines the established grade of a lot based upon an unchanging grade with respect to how it's perceived from the public right of way and from the neighbors on each side. The interpretation by the grade from the applicants is for the interpretation for the height of the structure, not the established grade on the site.
Mr. Walz supported, and the MOTION CARRIED with a roll call vote(5 yes votes).

Dehart-YES; based on Mr. Powell's comments and for all other reasons stated
Powell- YES; in order to match all the homes up and down the street and to conform to the ordinance requirements.
Schillack- YES; for the reason's states
Walz- YES, for the reason's states, and in addition to the August 30, 2019 letter from Nick Spencer to Clearview Homes
Spencer- YES; the ZBA is not denying substantial justice, nor the applicant property rights similar to those enjoyed by the majority of other properties in the same vicinities and other properties in the same zoning district. A home can be built without a basement, to build as indicated might result in substantial adverse impact to surrounding properties. The Zoning Board of Appeals are compelled to follow the ordinance as written and approved by the Township.

Other Business:

Mr. O'Neil also stated that the reason the Buckingham was not heard tonight is that the applicant felt that they wanted an in-person meeting. On May 8th, all four applicants on the agenda were contacted via email and phone regarding the Zoom format of the meeting, and they all were agreeable at that time. Ms. McFadden removed herself this Monday (June 8, 2020) Mr. O'Neil said he while it's her choice, there is no date certain for the return to in person meetings. He said we will have to work with her when in person meetings resume. Mr. Powell asked if the applicant will have to pay for fees again since they are postponed. Mr. O'Neil said that since the Buckingham case has been published four times, Ms. McFadden will be responsible for noticing the neighbors and newspaper for the fifth time. She had the opportunity to be heard tonight and she chose not to. Mr. Powell asked since the case has been postponed, would we have to readvertise? Mr. O'Neil confirmed that we will have to renotice again, especially since Ms. McFadden's request has changed. Ms. Hamameh agreed, and because of all the postponements and rescheduling due to COVID 19, this case will need to be advertised again.

Mr. O'Neil wanted to let everyone know the cases that have been rescheduled due to COVID-19 did not incur any extra charges because that was out of the applicant's control.

Adjournment: The meeting was adjourned at 9:23 p.m.

Next Meeting Date: June 25, 2020 (will be also held via Zoom)

DRAFT