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WHITE LAKE TOWNSHIP

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WHITE LAKE TOWNSHIP ZONING BOARD OF APPEALS

June 23, 2011 at 7:00 p.m.
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 7:00 p.m. and led the Pledge of Allegiance. Roll was called: Mr. Artinian, Mr. Gilbert and Mr. Lanthier were absent.

ROLL CALL: Robert Artinian – Secretary - Absent
Mike Lanthier – Absent
Gail Novak-Phelps
Linda Pearson
Josephine Spencer - Chairperson

Also Present: Jason Iacoangeli, Staff Planner
Lynn Lindon, Recording Secretary

Visitors: 8

Approval of Agenda:

Ms. Novak-Phelps moved to approve the agenda as presented. Ms. Pearson supported and the MOTION CARRIED with a voice vote. (3 yes votes)

Approval of Minutes:

a. Minutes of April 28, 2011

No action taken.

New Business:

Applicant: **File No. 11-004**
Charles Creviston
761 Rachelle Dr.
White Lake, MI 48386
Location: 761 Rachelle Dr., identified as 12-27-478-005
Request: Variance to Article 6, for side yard setback, distance to neighbors, lot area and lot coverage.

Ms. Spencer noted for the record that 28 property owners within 300 ft. were notified of the request. There were no letters received in favor or opposition, and none returned undeliverable

by the US postal service. Noted was a request signed by Joe Sterns, 755 Rachele, who was in favor of this plan.

Mr. Iacoangeli reviewed his report dated June 13, 2011. This is a single-family home located in the Golden Shores Subdivision Cedar Island Lake. This home is not served by the sanitary sewer system and uses a private well. This is a non-conforming lot of record and is zoned R1-C.

The applicant's proposal is to build an attached single bay garage. The garage is proposed to be 26 ft. in depth by 13 ft. in width. During the review process it was noted by the Community Development Department that the home already has an attached 2-car garage. It was explained to the applicant that this would make it hard to support the request to build a second attached garage because there is no hardship to support the request.

In order for the applicant to move forward with the request, the applicant should have to do everything possible to eliminate the amount of variances for this project. At the very least, the applicant needs to adjust the size of the addition thus eliminating the need for a side yard setback and distance to neighbor's variance, along with reducing the amount of lot coverage. The lot area variance is based on the lot being a non-conforming lot of record. Mr. Iacoangeli added that there is nothing in the ordinance that allows for 2 garages.

The applicant, Mr. Creviston, stated that he wants the garage to architecturally match the home. On his street and Golden Shores, others homes have 3-car garages and he doesn't feel this would be inconsistent with the character of the neighborhood. The way his property line comes up, he has a 10 ft. setback in the southwest corner and an 8 ft. setback at the southeast corner. He has 18 ft. clearance between the homes to service utilities if needed. They don't have any storage or basement in the home and he'd like to add the garage to store lawn tractors, etc. that they have accumulated over the years. The existing 2-car garage houses their 2 cars. He added that the proposed garage would match his home and be an enhancement to the other beautiful homes in his neighborhood.

Ms. Novak-Phelps questioned the applicant's photos that were submitted with the application. Mr. Creviston reviewed his photos with the board members.

Ms. Pearson stated she doesn't have a problem with this as it will be an enhancement and consistent with the character of the neighborhood.

Ms. Phelps referenced the staff report, who suggested reducing the size of the structure and whether Mr. Creviston would consider this. Mr. Creviston stated that he has the garage planned out with storage shelves, etc. and any reduction in size would change the layout.

Ms. Pearson stated she is still in support and taking 2 ft. off a small space would be significant.

Ms. Spencer noted that the ZBA's job is to eliminate non-conformity. She would like to reduce the variances. Mr. Creviston stated reducing it would ruin his intent of how he has planned the space. He plans on being in the home for a long time and his long term plan is to increase the storage space. Ms. Spencer noted for the record that Mr. Creviston needs 3 affirmative votes for the request to pass and he has the option to table his case for a month until a full board is present

Ms. Spencer opened the discussion for public comment.

Roy Caswell, 739 Rachele, stated he has looked at the plan and is in favor of the request.

With no other comments, the public hearing closed.

Ms. Spencer asked if the variance was granted, whether Mr. Creviston would have a problem with the motion stating that the 18 ft. clearance on the side of the house must be kept clear with

absolutely no trees and that this stipulation would follow the deed to the house. Mr. Creviston was not opposed.

Ms. Spencer moved in File 11-004 to approve the following variances: (1) 6,132 sq. ft. to minimum lot size for an end result of 9,868; (2) 4.9% to maximum lot coverage for an end result of 24.9%; (3) 2.0 ft. to the south side yard setback for an end result of 8.0 ft.; (4) 2.0 ft. to the distance to the neighbors for an end result of 18.0 ft. with the stipulation that absolutely nothing placed in the side yard area to the south including trees, and that the minutes of this meeting be recorded with the deed to the property in Oakland County. Ms. Novak-Phelps supported and the MOTION CARRIED with a roll call vote: Novak-Phelps – yes; Pearson – yes; Spencer – yes (neither the neighbors or the association is opposed and the applicant will make certain nothing is placed in the side yard setback, and everything will be recorded with the deed to Oakland County). (3 yes votes)

	File No. 11-005
Applicant:	Denise Reuven 2010 Kingston White Lake, MI 48386
Location:	2010 Kingston, identified as 12-13-155-011
Request:	Variance to Article 6, for lot size, lot width, lot coverage, distance to neighbors, and side yard setback. Variance to Section 4.20, Accessory Buildings in Residential Districts.

Ms. Spencer noted for the record that 40 property owners within 300 ft. were notified of the request. No letters were returned in favor or opposition and one was returned undeliverable by the US postal service.

Mr. Iacoangeli reviewed his report dated June 13, 2011. The applicant is seeking variances retroactively in order to maintain the use of the 336 sq. ft. shed that exists on the property. This shed was erected without a building permit and the Township Ordinance requires building permits for structures over 200 sq. ft.

The Building Official has written a summary regarding the history of this request. It is the opinion of the Community Development Department that the shed location as proposed is the only viable option for siting the structure on the property. The other option is to deny the request based on the number of variances required and have the shed removed from the property.

Ms. Pearson noted discrepancies in the building official's numbers versus the numbers in the staff report. Mr. Iacoangeli stated the measurements from the staff report are correct and would be used for the purpose of this meeting. Ms. Pearson asked whether the building official could amend his summary in the future so the numbers are consistent with the staff report.

Ms. Spencer read Mr. Bonnavier's summary to the public audience.

Mr. Reuven reviewed his plan for removing the shed from the lot line and showed pictures of the previous shed that was infested with vermin. He stated he was unaware that he had to get a building permit since he was only replacing something that was already there. He will have the shed disassembled, moved, and reassembled.

Ms. Spencer asked for measurements on the old shed versus the new existing shed. Mr. Reuven stated the old shed was 12'x14' and the new shed is 12'x28'. Currently the shed is 18" off the property line and he is seeking a variance to move it 5 ft. off the property line.

Ms. Spencer continued that she is very concerned that this shed is creating a safety issue, particularly if there were a fire. The ZBA is charged with not only trying to remove a non-

conformity, but protecting the health, safety and welfare of the community as well. In this case, there is clearly a safety issue.

Ms. Pearson is concerned that the shed is overpowering the neighbor's house.

Ms. Spencer stated this is an illegal non-conforming, but if he had replaced the shed on the identical footprint, he wouldn't be here tonight. Having extended the footprint now creates the issue.

Ms. Spencer opened the discussion for public comment.

Irene Jacobs, 2020 Kingston, is the adjacent neighbor. She reviewed pictures from her house and is concerned with the shed blocking her view of the lake. She doesn't want to be crowded and is also concerned with the value of her property. The shed is 2-stories and it's intrusive. She noted that she removed her personal shed because it was on part of Mr. Reuven's property. She noted also that she never received the formal notice in the mail.

Mr. Iacoangeli and Ms. Spencer reviewed the mailing list for the notifications and stated that Ms. Jacobs did in fact receive the mailing. Mr. Iacoangeli added that there is a strict legal process in notifying neighboring properties and the township actually goes beyond the 300 ft. requirement.

Ms. Pearson asked Mr. Reuven whether he would be willing to lower the roof line as the shed is being moved. Mr. Reuven stated is having a crane come in and move the shed from one location to the other and his plan is to make it look like the house. He didn't think height was an issue and noted that if he had a garage it would be 2-stories.

Ms. Pearson asked if there were other alternatives for Mr. Reuven to consider. Mr. Iacoangeli responded that the lot is so small that anywhere the shed is located will have equal to or more variances required to keep it. Any further to the rear of the house would encroach into the natural features setback, which would also obstruct the neighbor's view of the lake and moving it to the other side of the house would be worse.

Thomas Johnson, 9136 Buckingham, noted that Mr. Reuven put up a replacement shed and it doubled in size. He learned that two workers got on Ms. Jacob's roof to construct this shed. He feels the township would be creating a precedent by allowing Mr. Reuven to keep something this large on such a small lot. This was done without a permit and Mr. Reuven was advised to cease construction and get a permit. There is a court order to do something with this. He is opposed the request.

Mr. Reuven responded that Brent Bonniver came to his house during construction and told him to complete the shed and then come to his office for a building permit.

Larry Latham, 9090 Buckingham, expressed concern that the township would allow anyone to build a structure this big next to someone else's house. The shed denies the Jacobs' air, light and a view of the lake. In fact, rather than being just a shed, it is a large 2-story building. There wasn't room between the two houses to put up a ladder and the work crews were on the Jacobs' roof to construct it. This is clearly a health hazard if there was a fire and he is opposed to the shed.

With no other comments, the public hearing was closed.

Mr. Reuven indicated he is here to get a variance to move the shed off the lot line. He can move it 6 ft. from the property line which would give him 6 in. from his house. He just needs more storage.

Ms. Novak-Phelps stated she is disturbed that this was built without a permit and is very large. It can't stay there. In order to meet the ordinance, it needs to be 10 ft. from the lot line. In order to do that, he might have to put it behind his house and while this option might obstruct the Reuven's view of the lake, it is an option. She also asked for more information regarding the court order that was brought up. Mr. Reuven submitted a copy of a letter from his attorney to the township attorney to stop action on him until he can get this matter taken care of.

Mr. Iacoangeli understood that the letter is stating the shed is to be removed. Mr. Reuven responded that Mr. Bonnavier told him he would take care of this. Mr. Iacoangeli stated it would appear there is more to this and he is not comfortable moving forward.

The board members felt that the building official, Mr. Bonnavier, should be at the next meeting to address these issues.

Ms. Pearson stated she understands and is aware of both sides, but her concern at this point is with the lawsuit that neither the board or the staff planner was aware of until this evening. She is also not happy with how the letters did or didn't go out and with the discrepancies in numbers from the building department versus the planning department. She would like all these errors addressed and she is uncomfortable doing anything with this file until that happens.

Mr. Iacoangeli addressed the mailing issue and reiterated that the Community Development Department has a strict process for notifying properties within 300 ft. Letters are mailed and recorded, and the township is notified of any letters that were undeliverable by the U.S. Postal Service. Additionally, notices are required by law to be posted in the local paper as well.

Ms. Spencer suggested tabling this case with the stipulation that the staff be notified that this board is requesting input from the township attorney as to what has transpired in court; that new mailings go out if any of the variances are changed; and that the staff explore whether it is possible to move the shed to the rear of the home even though there may be other variances required and to communicate to the applicant whether this is a feasible option; and then it would be up to the applicant to decide if he wants to take another route.

Ms. Pearson requested copies of both sets of pictures as submitted by the applicant be available prior to the next set of meetings.

The applicant's wife, Mrs. Reuven, noted for the record that 3 other neighbors also did not receive notification of their request. Mr. Iacoangeli was adamant that the Community Development Department follows state law when notifying neighboring properties.

Ms. Novak-Phelps moved to table this case until the next available meeting. Ms. Pearson supported and the MOTION CARRIED with a voice vote. (3 yes votes)

Other Business:

Next Meeting Date:

- a. July 28, 2011

Adjournment:

Ms. Pearson moved to adjourn the meeting at 8:16 pm. Ms. Phelps supported and the MOTION CARRIED with a voice vote. (3 yes votes)