

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
JANUARY 26, 2023**

CALL TO ORDER

Chairperson Spencer called the meeting to order at 7:00 P.M. She then led the Pledge of Allegiance.

ROLL CALL

Present:

Clif Seiber

Niklaus Schillack, Vice-Chairperson

Jo Spencer, Chairperson

Michael Powell, Township Board Liaison

Debby Dehart, Planning Commission Liaison

Others:

Justin Quagliata, Staff Planner

Hannah Micallef, Recording Secretary

16 members of the public present

APPROVAL OF AGENDA

Chairperson Spencer wanted to amend the agenda to discuss the bylaws under item 8B.

MOTION by Schillack, support by Seiber to approve the agenda as amended. The motion CARRIED with a voice vote: (5 yes votes).

APPROVAL OF MINUTES

a. Zoning Board of Appeals Regular Meeting of December 8, 2022.

MOTION by Schillack, support by Seiber to approve the regular meeting minutes of December 8, 2022 as presented. The motion CARRIED with a voice vote: (5 yes votes).

CONTINUING BUSINESS

A. Applicant: David and Jeanine Scalpone / Sterling Mintzer

11071 Beryl Drive

White Lake, MI 48386

Location: **11071 Beryl Drive**

White Lake, MI 48386 identified as 12-33-278-010

Request: The applicant requests to construct a single-family house and accessory building (garage), requiring variances from Article 3.1.6.E, R1-D Single Family Residential Front Yard Setback, Side-Yard Setback, and Maximum Lot Coverage. A variance from Article 5.7.A, Accessory Buildings or Structures in Residential Districts is required for the setback between the principal building and accessory building.

Staff Planner Quagliata gave his report. A demolition permit was obtained from the Building Division per the requirement of the ZBA at the December 8, 2022 meeting.

Member Dehart asked staff if the applicant could receive additional lot coverage if the lot was connected to sanitary sewer. Staff Planner Quagliata stated 30 percent lot coverage could be allowed if the all the setbacks were met and the lot was connected to sanitary sewer.

Hunter Avis, 2804 Orchard Lake Road, was present to speak on behalf of the applicants. He said the applicants obtained a retroactive demolition permit, and worked on the plans to reduce the requested variances from five to three.

Member Schillack thanked the applicants for obtaining the retroactive demolition permit. Member Schillack asked the applicant if there was something about the topography of the lot that required the garage to be detached and located within the front yard setback.

Dave Scalpone, 11071 Beryl Drive, said the garage was designed in that manner to allow for a front door on the house. The previous house did not have a front door.

Jeanine Scalpone, 11071 Beryl Drive, said the detachment of the garage from the house was also for safety purposes.

Member Seiber said if the garage was attached to the house, the master bath would be without a window. He asked Mr. Scalpone if the cement pad north of the garage to the road would be eliminated. Mr. Scalpone confirmed.

Chairperson Spencer said the public hearing for this case was held at the December 8, 2022 meeting so a public hearing would not be held at this meeting. She noted there was one letter of opposition regarding the request in the file which was submitted after the last meeting, and the letter would be available to review during regular Township business hours, if desired.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance:

A. Practical Difficulty

- Member Dehart said the lot size was a practical difficulty as it was undersized for the current zoning standards. Other garages in the neighborhood had similar garages.
- Chairperson Spencer said she did not see a practical difficulty because while the lot was small, a house could be built on it.

B. Unique Situation

- Chairperson Spencer said she did not see a unique situation as the lot was similar to those in the area.
- Member Powell said the unique situation was if a variance was not granted, the applicants would not be able to enjoy the same use of their property like the adjacent neighbors did.

C. Not Self-Created

- Member Schillack said the design for the garage location was self-created, since the lot was currently vacant.
- Chairperson Spencer said there was a self-created problem as the applicants demolished the former house and garage.

D. Substantial Justice

- Member Powell said adjacent homeowners enjoyed their properties in a similar use as the applicants were proposing.

E. Minimum Variance Necessary

- Member Dehart said if the garage was attached to the house, the turning radius to get into the garage would be diminished. The front door would also be eliminated.
- Member Powell said the lot was angled in, so the further the garage was moved into the house, the turn radius would be reduced.
- Member Seiber added if the garage was attached to the house, it would potentially place parked cars closer to Beryl Drive. The proposed placement of the house seemed to be the best location on the lot.

Member Seiber MOVED to approve the variances requested by David and Jeanine Scalpone / Sterling Mintzer from Article 3.1.6.E of the Zoning Ordinance for Parcel Number 12-33- 278-010, identified as 11071 Beryl Drive, in order to construct a two-story house and a detached single-story garage. Variances from Article 3.1.6.E are granted to allow: the house to encroach 1.8 feet into the required setback from the east side lot line; to allow the garage to encroach 19.3 feet into the required setback from the front lot line; and to exceed the allowed lot coverage by 6.4 percent. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **In no event shall the projection of any roof overhang be closer than five (5) feet to the east and west side lot lines.**
- **No mechanical units, including HVAC system or generator, shall be placed in the side yard setbacks or the front yard. The plot plan shall be revised to show the proposed location of mechanical units.**
- **A foundation certificate shall be required prior to the backfill inspection by the Building Department.**
- **An as-built survey shall be required to verify the approved setbacks and lot coverage.**
- **The area between the garage and Beryl Drive which currently is shown as pavement on the plot plan shall be removed.**
- **The distance between the garage and the east side property line shall be no less than 25 feet.**

**Member Schillack SUPPORTED, and the motion CARRIED with a roll call vote (4 yes votes):
(Seiber/yes, Schillack/yes, Dehart/yes, Powell/yes, Spencer/no)**

NEW BUSINESS

A. Applicant: Ralph Josephson

7960 Barnsbury Avenue

West Bloomfield, MI 48324

Location: **3700 Jackson Boulevard**

White Lake, MI 48386 identified as 12-07-158-013

Request: The applicant requests to allow a single-family house to encroach into a required side yard, requiring a variance from Article 3.1.5.E, R1-C Single Family Residential Side Yard Setback.

Chairperson Spencer noted for the record 26 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 0 letters were returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave his report.

Member Dehart asked staff if the Building Official measured setbacks. Staff Planner Quagliata said no; Township staff did not take on the liability of measuring setbacks.

Ralph Josephson, builder, was present to speak on behalf of the case. He wanted to find a compromise for his clients. He said reducing the overhang nine inches would make the aesthetics on the house look strange.

Member Powell said the column was not in the correct location either; the column was one foot closer than originally approved by the ZBA. The roofline would need to be reduced to eliminate the overhang.

Chairperson Spencer opened the public hearing at 7:51 P.M.

Lynn Eschrich, 3694 Jackson Boulevard, spoke in opposition of the applicant's request.

Steve Cope, 3674 Jackson Boulevard, spoke in opposition of the applicant's request.

Chairperson Spencer closed the public hearing at 7:56 P.M.

Member Powell asked Mr. Josephson if the variances were not granted tonight, what would happen to the columns. Mr. Josephson said the columns would have to be removed and reduced in size.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance:

- A. Practical Difficulty
 - Member Schillack did not see a practical difficulty based on the previous rationale and deliberation by the ZBA. The error was too large to negate. Chairperson Spencer agreed.
 - Member Seiber said the applicant was made aware of the overhang projection at the March 2021 ZBA meeting. The applicant did not pay attention and encroached into the setback.
- B. Unique Situation
 - Member Schillack said the ZBA worked hard to have the house as compliant as possible while keeping the applicant and the Township in mind.
- C. Not Self-Created
 - Member Seiber said the applicant's request was self-created, the conditions from the March 2022 ZBA meeting were not taken into account. Member Dehart agreed.
- D. Substantial Justice
 - Member Schillack said the applicant's request, if approved, would deny substantial justice to the neighboring properties.

E. Minimum Variance Necessary

- Member Dehart said the minimum variance was already determined by the previous ZBA approval. Member Schillack agreed.

Member Schillack MOVED to deny the variances requested by Ralph Josephson for Parcel Number 12-07-158-013, identified as 3700 Jackson Boulevard, due to the following reason(s):

- **The reasons stated.**
- **Failure to meet the standards of Article 7, Section 37 of the ClearZoning Ordinance.**

Member Dehart SUPPORTED.

Member Schillack WITHDREW the motion.

Member Schillack MOVED to reaffirm the previous variances granted from Article 3.1.5.E of the Zoning Ordinance for Parcel Number 12-07-158-013, identified as 3700 Jackson Boulevard, including a 4 foot west side yard setback variance. This approval will have the following conditions

- **All conditions of previous approvals shall remain in effect.**
- **The applicant shall remove any part of the building within 6 feet of the west side yard lot line.**
- **No certificate of occupancy shall be granted for the house until the nonconforming portion is removed from being within 6 feet of the west side yard lot line.**

**Member Dehart SUPPORTED, and the motion CARRIED with a roll call vote (4 yes votes):
(Schillack/yes, Dehart/yes, Powell/yes, Seiber/no, Spencer/yes).**

B. Applicant: David Mazurkiewicz

424 Sunset Street

White Lake, MI 48383

Location: **424 Sunset Street**

White Lake, MI 48383 identified as 12-21-377-003

Request: The applicant requests to allow a single-family house to encroach into a required side yard, requiring a variance from Article 3.1.2.F, SF Suburban Farms Side-Yard Setback.

Chairperson Spencer noted for the record that 8 owners within 300 feet were notified. 0 letters were received in favor, 1 letter was received in opposition, and 0 letters were returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave his report.

Member Schillack asked staff how many structures were within five feet of the north side yard property line. Staff Planner Quagliata said two.

Member Seiber asked staff if building permits were obtained for the construction of the shed. Staff Planner Quagliata said if the shed was under 200 square feet, it would not have required a building permit. The shed was 12 feet by 12 feet, and it did not have a permanent foundation.

Member Dehart asked staff if there was a limit on the number of accessory buildings/structures allowed on a Suburban Farms zoned property. Staff Planner Quagliata said no, so long as the structures did not exceed the allowed lot coverage for the Suburban Farms zoning district.

Dave Mazurkiewicz, 424 Sunset, was present to speak on his case. He said the shed was part of the deck, and enclosed. There was not a permanent foundation. He was looking to make the shed more convenient for use. The shed would become an enclosed room. The two other structures were sheds and they were not on foundations either. There was an old volleyball court that was not in use as well.

Chairperson Spencer asked the applicant if the shed in question was heated. The applicant said yes.

Member Seiber asked the applicant what siding the shed had. The applicant said it was a shake siding.

Chairperson Spencer opened the public hearing at 8:40 P.M. She read one letter of opposition into the record.

Chairperson Spencer closed the public hearing at 8:42 P.M.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance:

- A. Practical Difficulty
 - Member Powell said there was no practical difficulty in relation to the property. Chairperson Spencer and Member Dehart agreed.
- B. Unique Situation
 - Member Dehart said there was not a unique situation.
- C. Not Self-Created
 - Member Dehart said there was a self-created problem. Chairperson Spencer agreed.
- D. Substantial Justice
 - Member Schillack said there were current parts of the property already adversely impacting the neighbors.
- E. Minimum Variance Necessary
 - Chairperson Spencer said there was not a practical difficulty.

Member Seiber MOVED to deny the variance requested by David Mazurkiewicz for Parcel Number 12-21-377-003, identified as 424 Sunset Street, due to the following reason(s):

- **Due to alternatives being available.**
- **Failure to meet the standards of Article 7, Section 37 of the ClearZoning Ordinance.**

Member Powell SUPPORTED, and the motion CARRIED with a roll call vote (5 yes votes): (Seiber/yes, Powell/yes, Dehart/yes, Spencer/yes, Schillack/yes).

OTHER BUSINESS

A. Election of Officers

MOTION by Member Schillack, support by Member Dehart, to elect Josephine Spencer as Chairperson for the remainder of 2023. The motion CARRIED with a roll call vote (5 yes votes): (Schillack/yes, Dehart/yes, Powell/yes, Seiber/yes, Spencer/yes).

MOTION by Member Powell, support by Member Seiber, to elect Niklaus Schillack as Vice-Chairperson for the remainder of 2023. The motion CARRIED with a roll call vote (5 yes votes): (Powell/yes, Dehart/yes, Seiber/yes, Spencer/yes, Schillack/yes).

B. Bylaws

The ZBA discussed the addition of "Call to the Public" to future agendas. The ZBA agreed to add "Call to the Public" to future agendas. Minor changes to the bylaws were also discussed.

MOTION by Member Powell, support by Member Schillack to approve the bylaws as discussed during tonight's meeting. The motion CARRIED with a roll call vote: (5 yes votes). (Powell/yes, Schillack/yes, Spencer/yes, Dehart/yes, Seiber/yes).

Staff Planner Quagliata said he would email a clean copy of the bylaws to the ZBA.

ADJOURNMENT

MOTION by Member Schillack, supported Member Seiber by to adjourn at 9:32 P.M. The motion CARRIED with a voice vote: (5 yes votes)