

**WHITE LAKE TOWNSHIP  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
FEBRUARY 23, 2023**

**CALL TO ORDER**

Chairperson Spencer called the meeting to order at 7:01 P.M. She then led the Pledge of Allegiance.

**ROLL CALL**

**Present:**

Clif Seiber  
Niklaus Schillack, Vice-Chairperson  
Jo Spencer, Chairperson  
Kathleen Aseltyne  
Anthony Madaffer

**Others:**

Justin Quagliata, Staff Planner  
Hannah Micallef, Recording Secretary

8 members of the public present

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

a. Zoning Board of Appeals Regular Meeting of January 26, 2023.

**MOTION by Member Schillack, support by Member Seiber to approve the regular meeting minutes of January 26, 2023 as presented. The motion CARRIED with a voice vote: (5 yes votes).**

**CALL TO THE PUBLIC**

No public comment.

**NEW BUSINESS**

A. Applicant: Michael Epley

6075 Carroll Lake Road

Commerce, MI 48382

Location: **9599 Portage Trail**

White Lake, MI 48386 identified as 12-26-185-005

Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct an addition, requiring variances from Article 7.23.A, Nonconforming Structures and Article 3.1.6.E, R1-D Single Family Residential Minimum Lot Area. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures is also required due to both the value of improvements and the increase in cubic content.

Chairperson Spencer noted for the record 38 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 Aseltyn asked staff what percentage of a house needed to remain to allow the house to be “grandfathered” in conformity. Staff Planner Quagliata said the Township ordinance did not recognize “grandfathering” and once a legal nonconforming house underwent a structural change, it lost legal nonconforming status.

Michael Epley, 6075 Carroll Lake Road, was present to speak on behalf of his case. He said there was a discrepancy between his plans and the survey regarding the front yard setback measurement. The front of the house was not built on foundation, and his intention was to remove the front to rebuild it over a foundation.

Member Schillack asked the applicant if the existing foundation would remain. Mr. Epley said it would.

Member Schillack asked the applicant if the septic tank was in good order. Mr. Epley confirmed and said he had a septic inspection done prior to purchasing the house.

Member Schillack asked the applicant what the practical difficulty was in regards to the lot. Mr. Epley said the existing house was a hardship, and the proposed plans would make the house more conforming than the previous house due to the increase of the front yard setback.

Chairperson Spencer opened the public hearing at 7:19 P.M. Seeing no public comment, she closed the public hearing at 7:19 P.M.

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

- A. Practical Difficulty
  - Chairperson Spencer said the lot was undersized and the existing buildings were nonconforming. Member Schillack agreed.
- B. Unique Situation
  - Chairperson Spencer said she saw a unique situation. Member Schillack and Member Madaffer agreed.
- C. Not Self-Created
  - The ZBA concurred there was not a self-created problem.
- D. Substantial Justice
  - Member Schillack said by granting the variance, neighbors would not be affected negatively. Chairperson Spencer agreed.
- E. Minimum Variance Necessary
  - Chairperson Spencer said she appreciated the applicant eliminating several nonconformities.

**Member Schillack MOVED to approve the variances requested by Michael Epley from Article 3.1.6.E, Article 7.23.A, and Article 7.28.A of the Zoning Ordinance for Parcel Number 12-26-185-005, identified as 9599 Portage Trail, in order to construct an addition. A variance from Article 7.23.A is granted to allow the addition to encroach 11.10 feet into the required setback from the east (front) lot line. A variance from Article 7.28.A is granted to exceed the allowed value of improvements to a nonconforming structure by 401%. A 1,338 square foot variance from the required lot area is also granted from Article 3.1.6.E. This approval will have the following conditions:**

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **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.**
- **The plot plan prepared by the Applicant (builder) shall be revised to be consistent with the plan prepared by the surveyor.**
- **The building permit fee shall be based on a value of improvement of \$145,000.**
- **The plans shall be revised to provide 10 feet between the house and garage.**

**Member Aseltyne SUPPORTED, and the motion CARRIED with a roll call vote (5 yes votes): (Schillack/yes, Aseltyne/yes, Seiber/yes, Madaffer/yes, Spencer/yes)**

- B. Applicant: Andre LaRouche  
493 Hillwood Drive  
White Lake, MI 48383  
Location: **493 Hillwood Drive**  
White Lake, MI 48383 identified as 12-21-452-014  
Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct an addition, requiring variances from Article 7.23.A, Nonconforming Structures and Article 3.1.6.E, R1-D Single Family Residential Minimum Lot Width.

Chairperson Spencer noted for the record 24 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 1 letter was returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave his report.

Kelly LaRouche, 493 Hillwood, was present to speak on behalf of the applicant. She said her husband was looking to build a small living room area over the deck.

Member Seiber said if the addition was flipped, variances would not be necessary. Mrs. LaRouche said flipping the addition would cut off access to the front door.

Chairperson Spencer opened the public hearing at 7:29 P.M. Seeing no public comment, she closed the public hearing at 7:29 P.M.

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

- A. Practical Difficulty
- Member Seiber said the narrowness of the lot presented a practical difficulty. Member Schillack said the location of the door did as well.
- B. Unique Situation
- Member Seiber said the narrowness of the lot was a unique situation.
- C. Not Self-Created
- The ZBA concurred there was not a self-created problem.
- D. Substantial Justice
- Member Schillack said the addition was very small in proportion to the house and would be similar to the surrounding houses.
- E. Minimum Variance Necessary
- Member Schillack said the applicant's plan was done to make the addition as small as possible.

**Member Aseltyne MOVED to approve the variances requested by Andre LaRouche from Article 3.1.6.E and Article 7.23.A of the Zoning Ordinance for Parcel Number 12-21- 452-014, identified as 493 Hillwood Drive, in order to construct a first-story addition. A variance from Article 7.23.A is granted to allow the addition to encroach 1.65 feet into the required setback from the east side lot line. A 40-foot variance from the required lot width is also granted from Article 3.1.6.E. This approval will have the following conditions:**

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **The Applicant shall submit a new building permit application.**

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

- C. Applicant: Black Rock White Lake, LLC  
30553 S. Wixom Road, Suite 300  
Wixom, MI 48393  
Location: 9531 Highland Road  
White Lake, MI 48386 identified as 12-23-129-018  
Request: The applicant requests to construct a restaurant with alcoholic beverages, requiring variances from Article 6.4.C.i, Minimum Driveway Spacing – Same Side of Road, Article 6.4.C.ii, Minimum Driveway Spacing – Opposite Side of Road, Article 6.4.C.iii, Minimum Driveway Spacing – Relative to Intersections, Article 5.11.A.iii, Off-Street Parking For Non-Residential Uses in a Required Rear Yard Setback, Article 5.11.A.iv, Off-Street Parking For Non-Residential Uses in a Required Front Yard Setback, Article 5.11.M.iii, Off-Street Parking Adjacent To A Parking Lot Entrance, Article 5.19.D.i, Required Minimum Screening and Landscaping, Article 5.9.J.vii.g, Electronic Message Board Signs, Article 5.9.J.ii.b, Maximum Number of Wall Signs, Article 5.9.F.iv, Prohibited Signs, Article 5.18.G, Outdoor Lighting.

Chairperson Spencer noted for the record 24 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 1 letter was returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave his report.

Member Schillack asked staff if the former Brendel's Septic driveway entrance was useable. Staff Planner Quagliata said the future owners of the property would need to ensure the driveway was compliant or they would need to seek a variance for future use when the property was redeveloped.

Member Schillack asked staff if two of the four former Speedway driveways were removed. Staff Planner Quagliata confirmed.

Member Seiber asked staff what the parking setback was from the Whitebanks Boulevard right-of-way. Staff Planner Quagliata said a 20-foot landscaped greenbelt was required.

Member Schillack asked staff if the electronic sign had breakaway ability. Staff Planner Quagliata was uncertain, but said in the past, the ZBA had required similar signs to be of breakaway construction.

Member Seiber asked staff about the variance the applicant listed for the doorhandles. Staff Planner Quagliata said the doorhandles were allowed incidental signs since they were under two square feet, and were able to be approved administratively.

Wayne Perry and Bruce Calhoun, 2180 Plus Drive, were present to speak on behalf of the applicant. Mr. Perry said in regards to the access issues on Highland Road, the property previously had two curb cuts off of Highland Road, and one off of Whitebanks Boulevard. He was proposing to eliminate the previous Highland Road curb cuts to construct a driveway that would be aligned with the easterly Famous Market driveway. He said the proposed driveway was what the Michigan Department of Transportation (MDOT) would approve. In regards to landscaping, the landscape architect showed all of the shrubs on the landscape plan, but they were located on the plan on the wrong side of the screen wall. He said the trees would also be provided, but would need to be moved due to utility purposes.

Mr. Calhoun said in regard to signage, the ordinance would be met size wise, but would like a sign facing the parking lot. He said the lighting on the building would be changed, and would like vertical recessed lights within the stone of the building.

Member Seiber asked Mr. Perry if trash retrieval hours were off hours to eliminate traffic issues. Mr. Perry confirmed, all refuse pickup and deliveries would be done off hours.

Member Seiber asked Mr. Perry about the easterly landscape island, and what its purpose was. Mr. Perry said it was provided to meet parking lot landscape requirements.

Member Schillack asked Mr. Calhoun what the lumens were on the vertical lighting. Mr. Calhoun said he believed it would be around 20 lumens, and the lights would glow, and not produce a lot of bright light.

Member Schillack asked Mr. Perry if there was a landscape alternative instead of the trees on the south side of the screen wall. Mr. Perry said shrubs could be placed there in addition to the trees.

Mr. Perry said the project was making its way through the permitting process with MDOT. MDOT was waiting for Township final site plan approval before issuance of the MDOT permit.

Member Seiber asked Mr. Perry what the driving need was behind the driveway on Highland Road. Mr. Perry said the delivery trucks came off Highland Road, and it would be ideal for trucks to enter through Highland Road and exit through Whitebanks Boulevard. Member Seiber said he reviewed the spacing between the islands within Whitebanks Boulevard and turning radi and determined truck traffic could be accommodated by the Whitebanks Boulevard driveway.

Member Schillack asked Mr. Perry what about the property created a practical difficulty. Mr. Perry said in regards to the south wall, the location of the landscaping would be difficult due to the utility easement. The easement was platted. Mr. Perry added that an access off of Highland Road was needed because if not, all traffic would be funneled through Whitebanks Boulevard, which was a residential street and would impact the neighborhood. Mr. Calhoun said at night, the restaurant would disappear because there was not lighting on the corner, and the requested lighting would signify a restaurant. The parapets were high in order to screen the rooftops so the building would look unique. The signs were high to offset the windows as well. Extra ventilation would cover the roof to avoid customers having "meat smells" in their hair. The entire sign on the north side of the property would be above the roofline.

Chairperson Spencer opened the public hearing at 8:18 P.M.

John Hunt, 871 W. Oxhill Drive, spoke in opposition to the applicant's request.

Chairperson Spencer closed the public hearing at 8:22 P.M.

Member Seiber said there was an estimated eight feet of planting area around the south property line, but there was a six-foot fence along the property line and there did not seem to be a purpose for planting in that area. He added there needed to be planting around the southmost leg of the parking lot to soften the area. Staff Planner Quagliata suggested more shrubs in that area. Member Seiber said he had concern with the left-bound turns into/out of the proposed Highland Road driveway. Staff Planner Quagliata said a traffic study was done, and the Township's traffic engineer did not make a comment in regard to safety with one versus two driveways.

Member Madaffer stated many of the driveways on Highland Road were a mess.

Member Seiber stated the sign on the easterly side of the building made sense based on the configuration of the parking lot.

Member Schillack asked Mr. Perry if the electronic sign would have a breakaway feature. Mr. Perry said it was possible, the internal structure could be breakaway.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance in regards to the driveway variances (Variances 1, 2, and 3):

- A. Practical Difficulty
  - Member Seiber said alternatives were available. Chairperson Spencer agreed.
  - Member Schillack said he would vote for the Highland Road driveway if the driveway was channelized to prohibit entering and exiting left turns.
- B. Unique Situation
  - Member Schillack said the driveway on Whitebanks Boulevard made for a unique situation in that a Highland Road driveway may not be necessary.
- C. Not Self-Created
  - Chairperson Spencer said there was a self-created problem.
- D. Substantial Justice
  - Member Schillack said the Speedway on the corner had two entrances. There were other commercial properties on corner lots that had two entrances.
- E. Minimum Variance Necessary
  - Member Schillack said the minimum variance would be one entrance.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance in regards to the setback variances (Variances 4 and 5):

- A. Practical Difficulty
  - Chairperson Spencer did not see a practical difficulty.
- B. Unique Situation
  - Member Aseltynne did not see a unique situation.
- C. Not Self-Created
  - Chairperson Spencer said there was a self-created problem.
- D. Substantial Justice
  - Member Schillack was concerned about the safety of customers in regards to the northern parking spots on the other side of the service drive.
- E. Minimum Variance Necessary
  - Chairperson Spencer said the variances were not the minimum necessary.

**Member Seiber MOVED to deny the variances from Articles 6.4.C.i, 6.4.C.ii, 6.4.C.iii, 5.11.A.iii, Article 5.11.M.iii requested by Black Rock White Lake, LLC for Parcel Number 12-23-129-018, identified as 9531 Highland Road, due to the following reason(s):**

- **Failure to meet the standards from ClearZoning Ordinance Article 7, Section 37.**

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

Member Schillack said he voted no because he felt the ZBA could have modified variances 1, 2, and 3 without a re-design and was more concerned about variances 4 and 5. It was hard for him to group both clusters together.



**The ZBA recessed at 9:03 P.M. The ZBA returned from recess at 9:07 P.M.**

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance in regards to the landscape variance (Variance 6):

- A. Practical Difficulty
  - Member Seiber said the situation was unusual due to the existing six-foot fence and the proposed masonry wall. He said the required materials could be relocated and installed elsewhere on the site to comply with the ordinance.
  - Chairperson Spencer said the landscaping materials could be planted elsewhere on the site.
- B. Unique Situation
  - Member Seiber said the situation was unique.
- C. Not Self-Created
  - Member Seiber said there was not a self-created problem.
- D. Substantial Justice
- E. Minimum Variance Necessary

**Member Seiber MOVED to approve the variance requested by Black Rock White Lake, LLC from Article 5.19.D.i of the Zoning Ordinance for Parcel Number 12-23-129-018, identified as 9531 Highland Road. This approval will have the following conditions:**

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **The Applicant shall receive final site plan approval from the Planning Commission.**
- **The proposed screen wall parallel to the westerly segment of the rear lot line shall be extended 17 feet to the west towards Whitebanks Boulevard.**
- **The proposed screen wall parallel to the west side lot line shall be reduced 17 feet in length by removing the southerly portion of the wall projecting beyond the front line of the house at 871 W. Oxhill Drive.**
- **Three parking spaces at the southeast corner of the property shall be removed.**
- **The six parking spaces adjacent to the sidewalk along the north property frontage shall be removed. This area shall be a greenbelt with landscaping.**
- **13 evergreen trees and 9 shrubs shall be planted north of the easterly segment of the rear lot line. The tree and shrub species shall be subject to Community Development Department approval.**
- **8 trees and 64 shrubs shall be relocated elsewhere on the site.**
- **Curb and gutter shall not be installed at the east end of the frontage road stub.**

- **The monument sign shall be reoriented to be perpendicular to Highland Road.**

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

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance in regards to the sign variances (Variances 7 and 8):

- A. Practical Difficulty
  - Chairperson Spencer said she did not see a practical difficulty.
  - Member Seiber said the easterly sign was reasonable as it was adjacent to the parking lot.
- B. Unique Situation
- C. Not Self-Created
- D. Substantial Justice
  - Member Schillack said he understood the challenge the lighting presented to the neighborhood.
- E. Minimum Variance Necessary

**Member Seiber MOVED to approve the variances requested by Black Rock White Lake, LLC from Article 5.9.J.vii.g and Article 5.9.J.ii.b of the Zoning Ordinance for Parcel Number 12-23-129-018, identified as 9531 Highland Road. This approval will have the following conditions:**

- **The “Black Rock” wall sign on the west elevation of the building shall not exceed 31.50 square feet in size.**
- **Any future modification to signage on the building or site, except for eliminating signage, shall require approval of the Zoning Board of Appeals.**
- **The proposed Camman Lighting architectural wall sconces shall be allowed on the brick columns of the building only if the 20-watt, 1,400 lumen lamp is utilized.**
- **Upon completion of the installation of all outdoor light fixtures and prior to the issuance of a Certificate of Occupancy, a registered engineer or architect shall verify in writing to the Community Development Department the outdoor lighting was installed in accordance with the approved lighting (photometric) plan and in accordance with the GB (General Business) outdoor lighting standards found in Section 5.18.G of the zoning ordinance.**
- **All nonessential outdoor lighting shall be turned off after business hours and/or when not in use. Essential outdoor lighting includes lighting associated with safety, security, and U.S. flag display. Parking lot luminaries are nonessential lighting.**

- **The electronic message board sign shall be collapsible upon impact and subject to review by the Community Development Department prior to issuance of a sign permit. The sign must comply with height and size requirements of the zoning ordinance.**
- **No wall signage shall be permitted on the north side of the building.**

**Member Aselyne SUPPORTED, and the motion CARRIED with a roll call vote: (5 yes votes)  
(Seiber/yes, Aselyne/yes, Spencer/yes, Madaffer/yes, Schillack/yes)**

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance in regards to the sign variances (Variances 9, 10, 11, 12 and 13):

- A. Practical Difficulty
  - Chairperson Spencer said she did not see a practical difficulty.
- B. Unique Situation
  - Member Schillack did not see a unique situation based on the land.
- C. Not Self-Created
  - Chairperson Spencer said there was a self-created problem.
- D. Substantial Justice
  - Member Aselyne said other establishments were denied the similar lighting/signage.
- E. Minimum Variance Necessary

**Member Seiber MOVED to deny the variances from Articles 5.9.J.ii.b and Article 5.9.F.iv requested by Black Rock White Lake, LLC for Parcel Number 12-23-129-018, identified as 9531 Highland Road, due to the following reason(s):**

- **Failure to meet the standards from ClearZoning Ordinance Article 7, Section 37.**

**Member Aselyne SUPPORTED, and the motion CARRIED with a roll call vote: (5 yes).  
(Seiber/yes, Aselyne/yes, Madaffer/yes, Schillack/yes, Spencer/yes)**

#### **OTHER BUSINESS**

None.

#### **ADJOURNMENT**

**MOTION by Member Aselyne, supported Member Madaffer by to adjourn at 9:36 P.M. The motion CARRIED with a voice vote: (5 yes votes)**