

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS MEETING
APRIL 27, 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:

Jo Spencer, Chairperson
Niklaus Schillack, Vice Chairperson
Debby Dehart, Planning Commission Liaison
Clif Seiber
Tony Madaffer

OTHERS:

Justin Quagliata, Staff Planner
Nick Spencer, Building Official
Hannah Micallef, Recording Secretary

12 members of the public present.

APPROVAL OF AGENDA

MOTION by Schillack, seconded by Dehart 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 March 23, 2023

MOTION by Schillack, seconded by Seiber to approve the minutes of March 23, 2023 as presented. The motion carried with a voice vote (5 yes votes).

CALL TO THE PUBLIC

None.

NEW BUSINESS

A. Applicant: Scott Ruggles
6385 White Lake Road

White Lake, MI 48383

Location: **Parcel Number 12-21-426-007**

Request: The applicant requests to extend the issuance period for a temporary use permit, requiring a variance from Article 7.20, Temporary Buildings and Uses.

Chairperson Spencer noted for the record 15 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 there was an address associated with the parcel number. Staff Planner Quagliata said no. Member Schillack asked staff why the applicant was before the ZBA tonight. Staff Planner Quagliata said the variance allowing temporary use permits expired years ago, and there needed to be a renewal of the variance for the use to continue.

Member Dehart asked staff if the variance ran with the property or with the applicant. Staff Planner Quagliata said the variance ran with the permit.

Scott Ruggles, 6385 White Lake Road, was present to speak on his case. His family had been farming in the Township and setting up the stand on this property for 35 years. He said it was recently brought to his attention the previous variance allowing temporary use permits had expired.

Member Seiber asked Mr. Ruggles why the extra 30 days on his permit was needed. Mr. Ruggles said it was for fall related produce such as hay, corn stalks, pumpkins and mums.

Chairperson Spencer opened the public hearing at 7:11 P.M. Seeing no public comment, she closed the public hearing at 7:11 P.M.

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

A. Practical Difficulty

- Member Seiber said the selling season was really four months, and he could see the need for a four-month period. He was uncertain about the need for a five-year approval.
- Member Schillack said he saw a practical difficulty with the selling season being four months.

B. Unique Situation

- Chairperson Spencer said it was a unique situation as the parcel was undeveloped and being utilized.

C. Not Self-Created

- Chairperson Spencer said there was not a self-created problem.

D. Substantial Justice

- Member Schillack said there was substantial justice in regard to the applicant's use of the property, since the property was zoned Agricultural.

E. Minimum Variance Necessary

- Chairperson Spencer said she did not see a problem with the applicant's request for five years.

MOTION by Member Schillack to approve the variance requested by Scott Ruggles from Article 7.20 of the Zoning Ordinance for Parcel Number 12-21-426-007 in order to extend the permit period for a temporary roadside stand. This approval will have the following conditions:

- Each year the Applicant shall obtain a temporary use permit from the Building Division.
- Activity associated with the temporary use shall be limited to July 1 through October 31, with site cleanup to be completed by November 6.
- Only one tent shall be permitted with the temporary use.
- Only one sign no larger than 32 square feet in size may be permitted and must meet sign setback requirements.
- The variance shall expire on April 27, 2028.

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

- B. Applicant: Michael & Carolyn Roy
471 Joanna K Avenue
White Lake, MI 48386
Location: **471 Joanna K Avenue**
White Lake, MI 48386 identified as 12-22-427-014
Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct an addition, requiring a variance from Article 7.23.A, Nonconforming Structures. 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 29 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 Schillack asked staff if the application in 2020 was incorrect in regard to the east side-yard setback. Staff Planner Quagliata said yes, there was not a certified survey provided for the property at the time of the hearing in 2020. There was a survey provided with the new application.

Member Schillack stated this case was an example of how a survey made the application process easier for all parties involved.

Sarah Roy, 471 Joanna K, was present to speak on behalf of her case. She said her parents were looking to make the house more multi-generational. They wanted everything on one level.

Member Seiber asked the applicant if the garage on the east side of the lot was being demolished. Ms. Roy confirmed. Member Seiber asked Ms. Roy if the garage could be reconstructed so the side-yard setback would be in conformance. Ms. Roy said that would encroach on the proposed first floor laundry, and would be shrinking functional living space.

Chairperson Spencer asked Ms. Roy if the functional living space could be reconfigured to the front of the house. Ms. Roy said it was an idea to consider, and it had not been brought up prior.

The applicant's redesigned floor plans were not included with this evening's documents. Ms. Roy stated she was unaware she did not submit them.

Member Seiber said he did not see a practical difficulty because the nonconforming garage would be torn down, and the lot was big enough to build a conforming house without variances.

Chairperson Spencer opened the public hearing at 7:41 P.M. Seeing no public comment, she closed the public hearing at 7:41 P.M.

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

- A. Practical Difficulty
 - Member Seiber said he did not see a practical difficulty as there was plenty room on the site and alternatives were available.
 - Member Dehart said she saw a practical difficulty for the allowed improvements for a nonconforming structure, but did not see a practical difficulty for the variance on the side yard.
- B. Unique Situation
 - Member Dehart said if there was not a practical difficulty based on the parcel; there was no unique situation.
- C. Not Self-Created
 - Member Schillack said the applicant did not build the house, but there were alternatives to construct an addition within the building envelope.
- D. Substantial Justice
 - Member Schillack said in contrary, other property owners did not have the same access to a large building envelope like this property.
- E. Minimum Variance Necessary
 - Member Schillack said because the building envelope was so large, an addition could be built with reduced variances, or none at all.

Member Seiber MOVED to deny the variances requested by Michael and Carolyn Roy for Parcel Number 12-22-427-014, identified as 471 Joanna K Avenue, due to the following reason(s):

- **The lot had sufficient area and width to accommodate additions to the house without needing variances.**
- **Failure to meet the standards from Article 7, Section 37 from the ClearZoning Ordinance.**

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

- C. Applicant: Father & Son Construction
5032 Rochester Road, Suite 100
Troy, MI 48085
Location: **3939 Jackson Boulevard**
White Lake, MI 48383 identified as 12-07-160-024
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 and Minimum Lot Width. 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 21 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 Seiber asked staff if the applicant put an awning on the porch, would a variance still be required. Staff Planner Quagliata said no, depending on the type of awning proposed.

Mike Vivona, 5032 Rochester Road, was present to speak on behalf of the applicant. He said he was looking to enhance the property for his client, and wanted to use a similar footprint for the covered porch as the existing uncovered deck.

Michael Del Proposto, 3939 Jackson Boulevard, also spoke. He said the house was his lake house in which to retire. He was aware the house needed renovations, and he wanted to bring the house up to code and to retire in it.

Member Seiber asked the property owner about the overhead wires on the property. Mr. Del Proposto said he spoke with DTE about moving the lines, but the discussion never went anywhere.

Chairperson Spencer opened the public hearing at 8:09 P.M.

Kimberley Del Proposto, 3939 Jackson Boulevard, said they had tried to work with DTE but there was also opposition from a neighbor.

Lisa Pfeiffer, 4270 Leroy, spoke in favor of the applicant's request.

Chairperson Spencer closed the public hearing at 8:11 P.M.

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

- A. Practical Difficulty
 - Member Schillack said he saw a practical difficulty based on the land and lot configuration.
- B. Unique Situation
 - Member Dehart said there was a unique situation with the canal along the lot.
- C. Not Self-Created
 - Chairperson Spencer said there was not a self-created problem. Member Dehart agreed.
- D. Substantial Justice
 - Chairperson Spencer said by granting the variances, the applicant would receive substantial justice. Member Schillack agreed.
- E. Minimum Variance Necessary
 - Member Schillack said the footprint was not being increased, but being reduced in some places.

Member Schillack MOVED to approve the variances requested by Father and Son Construction from Articles 7.23.A and 7.28.A of the Zoning Ordinance for Parcel Number 12-07-160- 024, identified as 3939 Jackson Boulevard, in order to construct a covered front porch and second-story addition. Variances from Article 7.23.A are granted to allow: a covered front porch to encroach 11.7 feet into the required front yard setback and exceed the allowed lot coverage by 5.5%, and a second-story addition to encroach 4 feet into the required setback from the east side lot line and 9 feet into the required front yard setback. A variance from Article 7.28.A is also granted to exceed the allowed value of improvements to a nonconforming structure by 121%. An 18.4-foot variance from the required lot width and a 5,808 square foot variance from the required lot area are 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 Division.**
- **An as-built survey shall be required to verify the approved setbacks and lot coverage.**
- **In no event shall the projection of any roof overhang be closer than five feet to the side lot lines.**
- **A revised building permit application shall be submitted.**

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

- D. Applicant: John & Gina Smerecki
8979 Lakeview Drive

White Lake, MI 48386

Location: **8979 Lakeview Drive**

White Lake, MI 48386 identified as 12-36-302-005

Request: The applicant requests to construct an accessory building, requiring variances from Article 3.1.6.E, R1-D Single Family Residential Front Yard Setback, Maximum Lot Coverage, Minimum Lot Area, and Minimum Lot Width. A variance from Article 5.7.C, Accessory Buildings or Structures in Residential Districts is also required due to the wall height.

Chairperson Spencer noted for the record 31 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.

John Smerecki, 8979 Lakeview Drive, was present to speak on his case. He said he wanted a garage to keep his vehicles secure, and would use the upstairs shop for woodworking and storage.

Member Seiber asked the applicant about the purpose of the second floor of the garage. Mr. Smerecki said it would be used for woodworking, hobby work, and exercising. He wanted to leave his options open. Member Seiber asked if the slope could be reduced to meet the required wall height of 14 feet. Mr. Smerecki said he could, but it would restrict usability. The location of the septic field was not shown on the survey. The well was located in the house.

Member Dehart was concerned if the current well failed, would there be enough room on the lakeside to install a new one. Mr. Smerecki said he spoke to his neighbors and there would not be an issue with moving fences to install a new well.

Chairperson Spencer was concerned with the proposed second story of the garage being used as an office.

Chairperson Spencer opened the public hearing at 8:29 P.M. Seeing no public comment, she closed the public hearing at 8:29 P.M.

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

Regarding all standards from Article 7, Section 37 of the ClearZoning Ordinance, Member Schillack stated it was difficult to make a decision without all of the data, and was concerned with the septic field not being identified on the survey. Staff Planner Quagliata stated that he shared that requirement with the applicants. Member Seiber said the location of the septic field had an impact on the placement of the proposed garage.

A. Practical Difficulty

- Member Dehart said the applicant needed room between the house and the garage in case of a future septic failure.
- B. Unique Situation
- Member Dehart said the garages on the properties near the house were closer the road.
- C. Not Self-Created
- Member Seiber said in regard to the variance for the height of the garage, the problem was self-created.
- D. Substantial Justice
- Member Seiber said in regard to the variance for the height of the garage, the problem was self-created.
- E. Minimum Variance Necessary
- Member Seiber said without a septic field location, the minimum variance necessary was unknown.

Member Dehart MOVED to postpone the appeal of John and Gina Smerecki to a date certain or other triggering mechanism for Parcel Number 12-36-302-005, identified as 8979 Lakeview Drive, to consider comments stated during this hearing, most importantly being the location of the septic field and tank on a site plan prepared by a surveyor.

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

- E. Applicant: Patrick & Lesa Pfeiffer
4270 Leroy Street
White Lake, MI 48383
Location: **4270 Leroy Street**
White Lake, MI 48383 identified as 12-07-160-016
Request: The applicant requests to install a swimming pool, requiring variances from Article 3.1.6.E, R1-D Single Family Residential Maximum Lot Coverage, Article 3.11.Q, Natural Features Setback, and Article 5.10, Swimming Pools.

Chairperson Spencer noted for the record 17 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. He also noted the site plan showed the septic tank but not the septic field.

Member Seiber asked staff if when variances were granted in 2012 was language regarding the required 5-foot overhang setback in the Zoning Ordinance. Staff Planner Quagliata said yes. He also said the current lot coverage violated the previous variance for lot coverage, and the house did not comply with the side yard setback variance previously granted.

Patrick and Lesa Pfeiffer, 4270 Leroy, were present to speak on their case. Mr. Pfeiffer said he bought the house from his aunt when the original house burned down and he built the current house. There was a consent judgement to approve the current footprint and then to request a variance. He said he was granted variances in 2012, and started construction in 2013. He was told at that time he did not need a permit for the accessory building due to it being under 200 square feet. He said he did obtain permits from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for the seawall.

Staff Planner Quagliata said the consent judgement was denied by the Township Board in 1999. The variances were the only building related restrictions in place.

Member Schillack asked the applicant where the septic field was. Mr. Pfeiffer said the field was running down the east side yard lot line.

Building Official Spencer said the seawall was actually a retaining wall, and would have needed a permit through the Building Department due to the required engineering of a retaining wall. He stated the retaining wall was not on the applicant's property.

Member Schillack said he did not have the data in front of him showing the septic field and did not presently feel comfortable making a decision without all of the information.

Member Seiber asked the applicant if the pool could be moved to eliminate the natural features setback variance. Mr. Pfeiffer said he was here to listen and to compromise. Member Seiber said if the pool could be shifted 10 inches, the only issue remaining was the side yard setback on each side and the lot coverage.

Chairperson Spencer opened the public hearing at 9:26 P.M. Seeing no public comment, she closed the public hearing at 9:27 P.M.

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

A. Practical Difficulty

- Member Schillack said he did not have the minimum data necessary to make a decision which was part of the application process.
- Member Dehart said the site was nonconforming.
- Chairperson Spencer said she did not see a practical difficulty.

B. Unique Situation

- Member Schillack said he did not have the minimum data necessary to make a decision which was part of the application process.
- Chairperson Spencer did not see a unique situation.

C. Not Self-Created

- Member Schillack said he did not have the minimum data necessary to make a decision which was part of the application process.

D. Substantial Justice

- Member Schillack said he did not have the minimum data necessary to make a decision which was part of the application process.

E. Minimum Variance Necessary

- Member Schillack said he did not have the minimum data necessary to make a decision which was part of the application process.

Member Seiber said the property had a variety of issues needing to be resolved, and it may be beneficial to postpone the case in order to allow the applicants to meet with the Building Department to address the outstanding issues.

Staff Planner Quagliata stated there was nothing the Building Department could discuss with the applicants.

Member Seiber MOVED to deny the variance requested by Patrick and Lesa Pfeiffer for Parcel Number 12-07-160-016, identified as 4270 Leroy Street, due to the following reason(s):

Violations of the previously granted variances for side yard setbacks and lot coverage; the garage violation of the front yard setback; construction of an accessory building and attached overhangs without a building permit, which is considered unlawful; and failure to meet the standards from Article 7, Section 37 from the ClearZoning Ordinance.

The applicant is advised the accessory building overhangs closer than 5 feet to a property line is not permitted and hereby ordered to be removed. Enforcement may commence regarding the accessory building overhangs with or without action by the ZBA.

Member Madaffer supported, and the motion CARRIED with a roll call vote: (Seiber/yes, Madaffer/yes, Schillack/yes, Spencer/yes, Dehart/no).

OTHER BUSINESS

None.

NEXT MEETING DATE: May 25, 2023

ADJOURNMENT

MOTION by Member Schillack, seconded by Member Seiber to adjourn at 9:41 P.M.