

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
JULY 27, 2023**

CALL TO ORDER

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

Roll was called:

ROLL CALL

Present:

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

Absent:

Mike Powell, Township Board Liaison

Others:

Justin Quagliata, Staff Planner
Hannah Micallef, Recording Secretary

APPROVAL OF AGENDA

MOTION by Member Madaffer, seconded 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 Meeting of June 22, 2023

MOTION by Member Seiber, seconded by Member Dehart to approve the minutes of June 22, 2023 as presented. The motion carried with a voice vote: (5 yes votes).

CALL TO THE PUBLIC

No public comment.

NEW BUSINESS

A. Applicant: Thomas & Ginger Tubbs

9474 Bonnie Briar Drive

White Lake, MI 48386

Location: **9474 Bonnie Briar Drive**

White Lake, MI 48386 identified as 12-14-205-020

Request: The applicants request a post-construction variance to allow an accessory structure within the natural features setback, requiring a variance from Article 3.11.Q, Natural Features Setback.

Chairperson Spencer noted for the record 34 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 a brief report.

Member Dehart asked staff if the gazebo was on the building permit that was pulled. Staff Planner Quagliata said no, because the gazebo was under 200 square feet in size and did not require a permit. The Building Official brought the gazebo to the Planning Division's attention. The gazebo was not included in the building permit that was pulled for the house/garage repairs and deck.

Member Schillack asked staff if there was any movement on the building permit. Staff Planner Quagliata said no inspections had been done since the discovery of the gazebo in the Spring.

Tom and Ginger Tubbs, 9474 Bonnie Briar, were present to speak on their case. He said the deficiencies noted on the building permit inspection report had been taken care of and were ready for re-inspection. Mrs. Tubbs said they replaced the gazebo that was damaged in the 2021 tornado; the previous gazebo stood in the same location for 22 years prior. They were not aware of the 25-foot natural features setback when the gazebo was rebuilt.

Member Seiber asked the applicant if there was room on the lot to move the gazebo out of the 25-foot setback. Mr. Tubbs said if the gazebo was moved it would block the stairs. The new gazebo was also cemented into the ground.

Member Seiber asked the applicants if they could move the gazebo to the easterly side of their lot. Mrs. Tubbs restated the gazebo was cemented in and it would require a lot of work to move it at this point.

Member Seiber said the lot met the R1-D zoning district standards for lot area and lot width and did not see the lot presenting a practical difficulty.

Member Schillack stated it was unfortunate the builder did not carefully read the building permit stipulations.

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

- A. Practical Difficulty
 - Chairperson Spencer agreed with Member Seiber's previous statement and did not see a practical difficulty.
- B. Unique Situation
 - Member Seiber said there was nothing apparent that made the lot unique.
 - Member Schillack said if there was anything unique about the lot, it was that the lot had more space than others to build.
- C. Not Self-Created
 - Member Schillack said the applicant's builder let them down, and it was a self-created problem.
- D. Substantial Justice
 - Chairperson Spencer said the gazebo could be moved elsewhere on the lot and meet the required setback. Member Schillack agreed.
- E. Minimum Variance Necessary

- Member Seiber said there were areas on the property the gazebo could be moved to in order to achieve compliance.

Member Seiber MOVED to deny the variance requested by Thomas and Ginger Tubbs for Parcel Number 12-14-205-020, identified as 9474 Bonnie Briar Drive, due to the following reason(s):

- The lot meets the area and width requirements for the R1-D zoning classification, the lot is not of unusual shape, and does not present a practical difficulty.
- There was sufficient available area on the lot to place the gazebo without encroaching into the required natural features setback.
- The building permit that was issued for the lot on September 21, 2021 advised that “any rebuilding of accessory structures must meet current Zoning Ordinance requirements, including setbacks.”
- For failure to meet the standards of Article 7, Section 37 of the ClearZoning Ordinance.

The Appellant shall remove the accessory structure from the property no later than September 25, 2023. Alternatively, the gazebo can be relocated to an area that would meet the Zoning Ordinance requirements no later than September 25, 2023, subject to Township approval.

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

OTHER BUSINESS

None.

NEXT MEETING DATE: August 24, 2023

ADJOURMENT

Member Schillack MOVED to adjourn at 7:28 P.M. Member Dehart supported, and the motion carried with a voice vote: (5 yes votes).