

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS**

**REPORT OF THE
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Zoning Board of Appeals
FROM: Justin Quagliata, Staff Planner
DATE: September 23, 2021

Agenda item: 6b

Appeal Date: September 23, 2021

Applicant: Roger Lewis

Address: 85 N. Hulbert Street
White Lake, MI 48386

Zoning: R1-D Single Family Residential

Location: 9 Danforth Drive
White Lake, MI 48386

Property Description

The approximately 0.194-acre (8,450.64 square feet) parcel identified as 9 Danforth Drive is located on Oxbow Lake and zoned R1-D (Single Family Residential).

Applicant's Proposal

Roger Lewis, the applicant, is requesting a post-construction variance for the alteration of a nonconforming structure.

Planner's Report

In December 2017, the applicant received a permit from the Building Department to install new shingles on the roof of the 400 square foot garage. The applicant violated the permit and removed the roof coverings and structure, and proceeded to reconstruct and raise the walls of the building, and increase the roof overhang. This unpermitted work was in violation of initial permit issued, as well as the zoning ordinance. In June 2019, previous staff in the Building Department allowed the applicant to add a house renovation onto the roof permit from 2017. Such modification was not consistent with Township permit policy; a separate permit should have been required. Additionally, the initially granted roof permit expired and was void at the time the work on the garage violated the terms of the permit. Instead of renovating the house, the applicant started demolishing the house. This was done without a demolition permit. In December 2019, the applicant obtained a demolition permit for the house.

Without a principal structure (house), the accessory building is a nonconforming use on the property. Additionally, with the dimensional nonconformities, the garage is not complying with the ordinance in numerous ways. The garage does not meet the 30-foot front yard setback, or the minimum five-foot accessory building setback from the side lot line. At the closest point, the garage wall is located 1.3 feet from the front (east) property line and 2.4 feet from the side (north) property line. The submitted survey does not show the extent of the roof overhang. Based on a visual inspection of the eaves, the roof could be encroaching off the property and into the road right-of-way. Article 5, Section 3 of the zoning ordinance prohibits roofs, gutters, windows, and open balconies from projecting closer than five feet to a lot line. Article 7, Section 27.vii prohibits the Zoning Board of Appeals from permitting side yards of less than five feet for safety reasons.

The legal nonconforming status of the garage was lost when the structure was altered. Furthermore, since the house was demolished, the use of land is now nonconforming. The Township recommends the Zoning Board of Appeals deny the variance request and order demolition of the garage be completed within 45 days.

The requested variance is listed in the following table.

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 7.23.A	Nonconforming Structures	No alteration	Reconstruct and increase wall height and roof overhang	Nonconforming status

Zoning Board of Appeals Options:

Approval: I move to approve the post-construction variance requested by Roger Lewis from Article 7.23.A of the Zoning Ordinance for Parcel Number 12-26-126-035, identified as 9 Danforth Drive, in order to allow the alteration of the garage and nonconforming status for said accessory building. This approval will have the following conditions:

- The Applicant shall obtain all necessary permits from the White Lake Township Building Department.

Denial: I move to deny the post-construction variance requested by Roger Lewis for Parcel Number 12-26-126-035, identified as 9 Danforth Drive, due to the following reason(s):. Furthermore, the garage shall be demolished by November 8, 2021.

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Table: I move to table the post-construction variance request of Roger Lewis for Parcel Number 12-26-126-035, identified as 9 Danforth Drive, to consider comments stated during this public hearing.

Attachments:

1. Variance application dated August 25, 2021.
2. Survey dated August 24, 2021.
3. Property photos.

7.37 STANDARDS

General variances: The Zoning Board of Appeals may authorize a variance from the strict application of the area or dimensional standard of this Ordinance when the applicant demonstrates all of the following conditions "A - E" or condition F applies.

- A. Practical difficulty: A practical difficulty exists on the subject site (such as exceptional narrowness, shallowness, shape or area; presence of floodplain; exceptional topographic conditions) and strict compliance with the zoning ordinance standards would unreasonably prevent the owner from using of the subject site for a permitted use or would render conformity unnecessarily burdensome. Demonstration of a practical difficulty shall have a bearing on the subject site or use of the subject site, and not to the applicant personally. Economic hardship or optimum profit potential are not considerations for practical difficulty.
- B. Unique situation: The demonstrated practical difficult results from exceptional or extraordinary circumstances or conditions applying to the subject site at the time the Ordinance was adopted or amended which are different than typical properties in the same zoning district or the vicinity.

- C. Not self created: The applicants problem is not self created.
- D. Substantial justice: The variance would provide substantial justice by granting the property rights similar to those enjoyed by the majority of other properties in the vicinity, and other properties in the same zoning district. The decision shall not bestow upon the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity (such as the supply of light and air, significant increases in traffic, increased odors, an increase in the danger of fire, or other activities which may endanger the public safety, comfort, morals or welfare).
- E. Minimum variance necessary: The variance shall be the minimum necessary to grant relief created by the practical difficulty.
- F. Compliance with other laws: The variance is the minimum necessary to comply with state or federal laws, including but not necessarily limited to:
 - i. The Michigan Right to Farm Act (P.A. 93 of 1981) and the farming activities the Act protects;
 - ii. The Americans with Disabilities Act of 1990 (as amended), and the needs of handicapped individuals the Act protects, including accessory facilities, building additions, building alterations, and site improvements which may not otherwise meet a strict application of the standards of this Ordinance.

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

RECEIVED

CHARTER TOWNSHIP OF WHITE LAKE
Zoning Board of Appeals
APPLICATION

AUG 25 2021

BUILDING DEPARTMENT

White Lake Township Planning Department, 7525 Highland Road, White Lake, MI 48383 248-698-3300 x168

APPLICANT'S NAME: Roger Lewis PHONE: 248 431 2614

ADDRESS: 85 N Hulbert White Lk

APPLICANT'S EMAIL ADDRESS: _____

APPLICANT'S INTEREST IN PROPERTY: OWNER BUILDER OTHER: _____

ADDRESS OF AFFECTED PROPERTY: 9 DANFORTH PARCEL # 12-26-126-05

CURRENT ZONING: Res. PARCEL SIZE: _____

STATE REQUESTED VARIANCE AND ORDINANCE SECTION: _____

VALUE OF IMPROVEMENT: \$ 1,800 SEV OF EXISITING STRUCTURE: \$ _____

STATE REASONS TO SUPPORT REQUEST: (ADDITIONALS SHEETS MAY BE ATTACHED)

APPLICATION FEE: \$385.00 (CALCULATED BY THE PLANNING DEPARTMENT)

APPLICANT'S SIGNATURE: Roger Lewis DATE: 8-25-21



LOWE'S

NEVER STOP IMPROVING

06/23/2020

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