

**WHITE LAKE TOWNSHIP  
ZONING BOARD OF APPEALS**

**REPORT OF THE  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Zoning Board of Appeals  
**FROM:** Justin Quagliata, Staff Planner  
**DATE:** December 9, 2021

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**Agenda item:** 7c

**Appeal Date:** December 9, 2021

**Applicant:** John Rozanski

**Address:** 2704 Wabum Road  
White Lake, MI 48386

**Zoning:** RM-2 Multiple Family and R1-D Single Family

**Location:** 8565 Pontiac Lake Road  
White Lake, MI 48386

## **Property Description**

The 3.19-acre parcel identified as 8565 Pontiac Lake Road is located on Pontiac Lake and zoned RM-2 (Multiple Family) and R1-D (Single Family Residential). The centerline of the Pontiac Lake Road right-of-way serves as the boundary for the split zoning of this property; the land north of the centerline is zoned R1-D and the land south of the centerline is zoned RM-2. There are two existing one-story buildings on the south side of the Pontiac Lake Road right-of-way (east building: 1,905 square feet; west building: 1,915 square feet). The site is served by a private well for potable water and an existing sanitary sewer grinder pump station.

## **Applicant's Proposal**

John Rozanski, the applicant, is requesting an extension of the approval period for variances granted by the Zoning Board of Appeals on June 24, 2021 associated with the construction of a 12-unit apartment building on the south side of Pontiac Lake Road.

## **Planner's Report**

The staff report for the original approval (attached) should be referenced for a more complete overview of the project.

In accordance with Article 7, Section 39 of the zoning ordinance, no order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. Variances were granted for the project on June 24, 2021, and therefore expire on December 24, 2021. At its meeting on October 21, 2021 the Planning Commission approved the final site plan for the project. In a letter addressed to the Zoning Board of Appeals dated November 3, 2021, the applicant requested a six-month extension to allow the variances to remain valid. If the requested extension is granted, the approval period for the previous variances will terminate on June 24, 2022.

The requested variance is listed in the following table.

<b>Variance #</b>	<b>Ordinance Section</b>	<b>Subject</b>	<b>Standard</b>	<b>Requested Variance</b>	<b>Result</b>
1	Article 7.39	Approval Periods	6 months	6 months	12 months

## **Zoning Board of Appeals Options:**

**Approval:** I move to approve the variance requested by John Rozanski from Article 7.39 of the Zoning Ordinance for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, in order to extend the approval period for variances granted on June 24, 2021 by six months, until June 24, 2022. This approval will have the following conditions:

- All conditions of previous approvals shall remain in effect.

**Denial:** I move to deny the variance requested by John Rozanski for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, due to the following reason(s):

**Table:** I move to table the variance request of John Rozanski for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, to consider comments stated during this public hearing.

## **Attachments:**

1. Staff report dated June 24, 2021.
2. Applicant's written statement dated November 3, 2021.
3. Minutes of the June 24, 2021 Zoning Board of Appeals meeting.

### 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.

**WHITE LAKE TOWNSHIP  
ZONING BOARD OF APPEALS**

**REPORT OF THE  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Zoning Board of Appeals  
**FROM:** Justin Quagliata, Staff Planner  
**DATE:** June 24, 2021

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**Agenda item:** 6a

**Appeal Date:** June 24, 2021

**Applicant:** John Rozanski

**Address:** 2704 Wabum Road  
White Lake, MI 48386

**Zoning:** RM-2 Multiple Family and R1-D Single Family

**Location:** 8565 Pontiac Lake Road  
White Lake, MI 48386

## **Property Description**

The 3.19-acre parcel identified as 8565 Pontiac Lake Road is located on Pontiac Lake and zoned RM-2 (Multiple Family) and R1-D (Single Family Residential). The centerline of the Pontiac Lake Road right-of-way serves as the boundary for the split zoning of this property; the land north of the centerline is zoned R1-D and the land south of the centerline is zoned RM-2. There are two existing one-story buildings on the south side of the Pontiac Lake Road right-of-way (east building: 1,905 square feet; west building: 1,915 square feet). The site is served by a private well for potable water and an existing sanitary sewer grinder pump station, which with upgrades would service the proposed building.

## **Applicant's Proposal**

John Rozanski, the applicant, is proposing to demolish the existing buildings and construct a 12-unit apartment building on the south side of Pontiac Lake Road.

## **Planner's Report**

At its February 18, 2021 meeting the Planning Commission recommended approval of the preliminary site plan to the Township Board. Variances were required, and at its February 25, 2021 meeting the Zoning Board of Appeals (ZBA) denied all of the requested variances. A revised site plan was submitted to address some of the comments from the February ZBA meeting. At its June 17, 2021 meeting the Planning Commission recommended approval of the revised preliminary site plan, subject to the applicant receiving approval from the ZBA.

Some changes between the prior proposal and current request include:

- Reduction of two units, from 14 to 12.
- Overall reduction in building size of 1,096 square feet.
  - 368 square foot reduction on both the first floor and garden level.
  - 360 square foot reduction on the second floor.
- The building, including balconies and patios, was moved out of the 25-foot Natural Features setback from the wetland.
- The proposed sidewalk was relocated within the Pontiac Lake Road right-of-way.

The project consists of one two-story building with a garden level (basement) totaling 11,871 square feet in size with six, two-bedroom units and six, one-bedroom units. The garden (basement) and first levels are each 3,997 square feet in size and contain two, one-bedroom units and two, two-bedroom units; the second level is 3,877 square feet in size and contains two, one-bedroom units and two, two-bedroom units. All of the one-bedroom units are 680 square feet in size and all of the two-bedroom units are 1,005 square feet in size. The floor plans show all of the two-bedroom units include an area labeled "bedroom/study." All of these rooms contain a closet and window and could be converted to a third bedroom with a wall extension and door.

The units would still meet the minimum floor area required per dwelling unit if the two-bedroom units were converted to three-bedroom units in the future. For multiple-family residential, one-bedroom/efficiency units must be a minimum of 400 square feet in area, two-bedroom units must be a minimum of 700 square feet in area, and three-bedroom units must be a minimum of 850 square feet in area. Additionally, the lot size would still be sufficient if the two-bedroom units became three-bedroom units in the future. For a 12-unit building consisting of six, one-bedroom units and six, two-bedroom units, the minimum lot size required is 51,000 square feet (1.17 acres). An additional 2,500 square feet of lot area is required (and available) to accommodate the conversion of the two-bedroom units to three-bedroom units. For reference, the minimum lot area method of calculation is: 10,000 square feet for the first unit, plus 3,500 square feet for each additional one-bedroom unit, 4,000 square feet for each additional two-bedroom unit, and 4,500 square feet for each additional three-bedroom unit.

The minimum side yard setback in the RM-2 zoning district is 70 feet on one side, 100 feet total of two sides. The proposed side yard west of the building is 40 feet; therefore, a 30-foot variance is being requested. To the east of the building the proposed side yard is 30 feet. For reference, the property to the east is zoned R1-C (Single Family Residential) and the property to the west is zoned RM-2. On the previous plan, the east side yard was 27.7-feet and the west side yard was 30-feet. A 42.3-foot variance was previously requested for the east side yard. Overall, the side yard variance request was reduced by 12.3-feet, from 42.3-feet to 30-feet.

Parking setback variances are also being requested. The zoning ordinance requires parking for non-single family residential and non-residential uses to meet the front yard setback requirement of the underlying zoning district; however, parking in a required front yard may be permitted, except for the first 20 feet which must be a greenbelt and landscaped in conformance with the standards of the ordinance. The minimum front yard setback in the RM-2 zoning district is 40 feet. At its closest point (the northwest corner) the parking lot is located 10 feet from the south right-of-way line of Pontiac Lake Road. A 20-foot greenbelt is not proposed, so the applicant is requesting a 30-foot variance for the front parking setback.

Parking for non-single family residential and non-residential uses may be permitted in a side yard setback, if all greenbelt and/or screening requirements of the ordinance have been met. The zoning ordinance offers options to provide an appropriate amount of screening between properties based on the zoning of an adjacent parcel. Following are the screening options outlined in the zoning ordinance based on the zoning of the subject site and adjacent properties to the east and west:

- Land Form Buffer
  - Height: 3-foot berm with a 2-foot crown and maximum 3:1 slope; 20 feet in width
  - Planting Requirements: 1 large deciduous, 1 evergreen tree and 8 shrubs for every 30 linear feet

- Buffer Strip and Obscuring Fence
  - 1 large deciduous or evergreen tree and 4 shrubs for every 15 linear feet; 20 feet in width
  - 6-foot-tall fence
  
- Screen Wall
  - Height: 6 feet
  - Width: 8 inches of brick, or decorative concrete
  - Planting Requirements: 5-foot greenbelt (1 large deciduous or evergreen tree and 8 shrubs for every 30 linear feet) adjacent to screen wall for its entire length

The parking lot is located five feet from the west side lot line and 13.5 feet from the east side lot line, with no screening as previously described proposed; therefore, the applicant is requesting a 65-foot variance for the west side parking setback and a 16.5-foot variance for the east side parking setback. On the previous plan, the east and west sides of the parking lot were both located five feet from the side lot lines, and the requested variances were 25-feet on the west side 65-feet on the east side.

Article 5, Section 19.N.i.C states trash enclosures are not permitted within a required front yard setback, nor closer to the front lot line than the principal building. The proposed dumpster enclosure is located closer to Pontiac Lake Road than the apartment building, and does not meet the front yard setback. A 38-foot variance is required to encroach into the front yard, and a 2.5-foot variance is required to encroach into the front yard setback. Since the previous plan, the projection in front of the building was reduced eight feet (from 46 feet).

The zoning ordinance requires curbing for the construction of a parking area in order to control stormwater flow from the parking area and in order to protect landscape areas, such as landscape islands and other plantings. Stormwater is proposed to be detained by installation of underground detention with a pre-treatment structure. A permit is required from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for discharge into the Huron River/wetland. Article 5, Section 19.B.v states all required landscape areas and screen walls which abut vehicular drives, parking or other use areas shall be separated from the vehicular use area with a six (6) inch minimum curb of concrete construction. Additionally, Article 5, Section 11.Q.xviii states concrete curbing shall be provided at the end of all parking areas and stalls. The submitted site plan does not show the required curbing. Therefore, the applicant is requesting a variance to waive the installation of curbing.

In the RM-2 zoning district the minimum lot width is 200 feet. At 170-feet wide, the applicant is requesting a 30-foot variance to address the width deficiency.

The requested variances are listed in the following table.

<b>Variance #</b>	<b>Ordinance Section</b>	<b>Subject</b>	<b>Standard</b>	<b>Requested Variance</b>	<b>Result</b>
1	Article 3.1.9.E	Side yard setback	70 feet on one side, 100 feet total	30 feet (west)	40 feet
2	Article 3.1.9.E	Minimum lot width	200 feet	30 feet	170 feet
3	Article 5.11.Q.xviii	Off-Street Parking Space Layout, Standards, Construction and Maintenance	Concrete Curbing	Waive the installation of concrete curbing	No concrete curbing
4	Article 5.11.A.iii	Parking setback – side yard	30 feet – east 70 feet – west	16.5 feet – east 65 feet – west	13.5 feet (east) 5 feet (west)
5	Article 5.11.A.iv	Parking setback – front yard	40 feet	30 feet	10 feet
6	Article 5.19.N.i.C	Dumpsters & trash storage enclosures	40 feet – front yard 0 feet – projection	2.5 feet – front yard 38 feet – projection	37.5 feet – front yard 38 feet – projection

## **Zoning Board of Appeals Options:**

**Approval:** I move to approve the variances requested by John Rozanski from Articles 3.1.9.E, 5.11.Q.xviii, 5.11.A.iii, 5.11.A.iv, and 5.19.N.i.C of the Zoning Ordinance for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, in order to construct an apartment building that would encroach 30 feet into the required west side yard setback. Parking setback variances are granted to encroach 30 feet into the required front yard setback, 65 feet into the required west side yard setback, and 16.5 feet into the required east side yard setback. A 2.5-foot variance and 38-foot variance are granted to allow the dumpster enclosure to encroach into the required front yard setback and project in front of the principal building. A variance is granted to waive the installation of curbing. A 30-foot variance from the required lot width is also granted. 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 preliminary site plan approval from the Township Board and final site plan approval from the Planning Commission.
- A permit from the Road Commission for Oakland County (RCOC) shall be required for all work within the Pontiac Lake Road right-of-way.
- A permit from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) shall be required for stormwater discharge into the Huron River/wetland.

**Denial:** I move to deny the variances requested by John Rozanski for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, due to the following reason(s):

**Table:** I move to table the variance requests of John Rozanski for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, to consider comments stated during this public hearing.

## **Attachments:**

1. Variance application dated May 20, 2021.
2. Existing conditions plan dated April 26, 2019 (revision date May 12, 2021).
3. Preliminary site plan dated January 30, 2020 (revision date May 12, 2021).
4. Architectural site plan, floor plans, and elevations dated May 20, 2021.

### 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.

11-3-2021

John Rozanski  
2704 Wabum Road  
White Lake, MI. 48386  
President NCM Ventures  
248-231-8529

Re:  
8565 Pontiac Lake Road Overlook Project

Dear Zoning Board of Appeals,  
I'm writing this letter after speaking with Justin on 10-29-21. Justin explained to me that I must request an extension, through the ZBA if I want more time, before I have to pull my building permit. Therefore, I am asking for more time. There are several factors on why I require more time. They are as follows.

I recently received my final site approval last month. Until then I haven't been able to submit my project for pricing. I have sent the plans out to several builders and asked them to expedite the review. At this point, I don't even know if the project is financially feasible. I was told maybe by Thanksgiving or early December I can get some pricing. At this point, all I have are preliminary numbers.

Funding is also going to take time, once I receive numbers and plan on moving forward. Without the funding, I surely won't need the building permit.

Most importantly, I have lease agreements with my current tenants that last through mid-April of 2022. I certainly don't want to pull a permit and give up 4 months of time, before I can even demo.

Finally, my ZBA meeting was in June which puts my 6-month deadline in December. I surely won't be doing any construction this winter. It won't be until the spring or summer of 2022.

Please let me know what I can do. I am asking for a 6 month extension. It's my hope that I can get this project off the ground asap. I just need more time so I don't have to go through this whole process over again.

Respectfully,  
John Rozanski

RECEIVED

NOV 03 2021

COMMUNITY  
DEVELOPMENT  
DEPARTMENT

**WHITE LAKE TOWNSHIP  
ZONING BOARD OF APPEALS  
REGULAR VIRTUAL MEETING**

June 24, 2021

**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:**

Kathleen Aseltyne, present in White Lake, MI

Nik Schillack, present in White Lake, MI

Debby Dehart- Planning Commission Liaison, present in White Lake, MI

Jo Spencer- Chairperson, present in White Lake, MI

Michael Powell, Township Board Liaison, present in Cincinnati, OH

**Absent:**

Dave Walz, Vice Chairperson

**Others:**

Justin Quagliata, Staff Planner

Hannah Micallef, Recording Secretary

**APPROVAL OF AGENDA**

**MOVED** by Member Schillack, **SUPPORTED** by Member Dehart to approved 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 May 27, 2021

**MOVED** by Member Dehart, **SUPPORTED** by Member Aseltyne to approve the Zoning Board of Appeals Regular Meeting Minutes of May 27, 2021 as presented. The motion **CARRIED** with a voice vote (5 yes votes).

**CONTINUING BUSINESS:**

There was no continuing business.

**NEW BUSINESS:**

- a.     Applicant:     John Rozanski  
                          2704 Wabum Road  
                          White Lake, MI 48386
- Location:    **8565 Pontiac Lake Road**  
                          White Lake, MI 48386 identified as 12-13-328-003
- Request:     The applicant requests to construct an apartment building and associated parking lot, requiring variances from Article 3.1.9.E, RM-2 Multiple Family Residential Side-Yard Setback and Minimum Lot Width. A variance from Article 5.11.A, Off-Street Parking is required due to the parking setbacks. A variance from Article 5.19.N.i.c, Dumpsters and Trash Storage Enclosures is required for the dumpster projection in front of a principal building. A variance from Article 5, Section 11.Q.xviii is required to waive the installation of parking area curbing.

Chairperson Spencer noted for the record that 13 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 US Postal Service.

Staff Planner Quagliata gave his staff report.

Member Schillack asked staff if the units were reduced from 14 units to 12 units. Staff Planner Quagliata confirmed. Member Schillack asked staff if curbing was added. Staff Planner Quagliata said no. Member Schillack asked staff if landscaping fell into the ZBA's purview. Staff Planner Quagliata said yes, screening was required per the Zoning Ordinance since the property was adjacent to residentially zoned property.

Mr. Brian Howard, architect for the project, was present to speak on behalf of the applicant. He said when he reduced two units from the original plan, he was able to reduce the parking. By reducing the building footprint, he was able to pull it out of the natural features setback. He said more landscaping would be added around the parking area. He said there was no intent to eliminate curbing, and he did not notice it was missing on the plans. Curb and gutter would be installed around the parking lot.

Chairperson Spencer asked staff if the plans showed the screening material for the dumpster. Staff Planner Quagliata said the plans showed an 8' poured concrete or block wall with an 8' metal gate; he added the ordinance did not allow poured concrete walls for dumpster enclosures. Chairperson Spencer asked staff what materials the building would be built with. Staff Planner Quagliata said it would be a combination of brick (vener) and composite siding.

Chairperson Spencer asked Mr. Howard if the dumpster enclosure could be designed to have the same material that the building would have. Mr. Howard said yes, the enclosure could be constructed with brick veneer.

Member Powell asked staff if there was a way to prevent the dumpster gates of being open all day. Staff Planner Quagliata said the only way to ensure that would be a self-closing or electronic gate.

Chairperson Spencer opened the public hearing at 7:36 P.M. Seeing no public comment, she closed the public hearing at 7:36 P.M.

John Rozanski, applicant, was also present. He said he would beautify the dumpster enclosure as much as possible due to the location. He added he planned on isolating the building with landscaping. Mr. Howard said the idea was to soften the building from the parking area, and there would be landscaping lining the walkways.

Staff Planner Quagliata stated any condition regarding landscaping would have to be specific.

Member Dehart asked staff if irrigation was necessary. Staff Planner Quagliata said yes, and an irrigation plan was a requirement for final site plan approval.

Staff Planner Quagliata went through the standards from Article 7, Section 37 from the ClearZoning Ordinance:

A. Practical Difficulty

In regards to side yard setback:

- Member Powell said the site itself had a number of practical difficulties. There were drawbacks in order to make the site conform with its zoning.

In regards to minimum lot width:

- Chairperson Spencer said the lot was not 200' wide

In regards to parking setbacks on the side yards:

- Chairperson Spencer said the applicant reduced the amount of setback variance requested since coming before the ZBA in February.
- Member Dehart said the front parking setback was due to the natural feature setback.
- Member Schillack said it would be better to keep cars away from the river due to potential car oil/car fluid run off into the river.

In regards to the projection and setback of the dumpster enclosure:

- Member Dehart said there was no other place for a dumpster.

B. Unique Situation

- Chairperson Spencer said the lot was nonconforming. Mr. Schillack added the river made the lot unique as well. The ZBA concurred this applied to all requested variances.

C. Not Self-Created

- Member Schillack said the river was an existing feature and not created by the applicant. The ZBA concurred this applied to all requested variances.

D. Substantial Justice

- Member Schillack said allowing the applicant to construct the building would grant him substantial justice. Chairperson Spencer agreed. The ZBA concurred this applied to all requested variances.

E. Minimum Variance Necessary

- Chairperson Spencer said the applicant had been working with Township staff regarding the needed variances and believed these variances were the minimum necessary. Member Schillack agreed. The ZBA concurred this applied to all requested variances.



Staff Planner Quagliata gave his staff report.

Member Schillack asked staff if the side yard setback variance requested was due to wanting to keep a window. Staff Planner Quagliata confirmed.

Member Dehart asked staff what year the house was built. Staff Planner Quagliata said the house was built in 1960.

Mr. Scott Summers, applicant, was present to speak on his case. He spoke with staff in the Planning Department regarding his plans. He wanted to construct the addition to keep consistency with the rest of the house. He originally wanted to build a lake room off the back, but after speaking with staff, he revised the plans to modify the overhang. He said the estimate of the value of work was due to the increase in lumber prices.

Member Schillack asked staff for the proposed roof overhang setback. Staff Planner Quagliata said 5.3'.

Member Aseltyne asked the applicant what the practical difficulty was in his situation. Mr. Summers said the property was oddly shaped and on an angle.

Chairperson Spencer opened the public hearing at 8:50 P.M. Seeing no public comment, she closed the public hearing at 8:51 P.M.

Staff Planner Quagliata went through the standards from Article 7, Section 37 from the ClearZoning Ordinance:

- A. Practical Difficulty
  - Member Powell said the shape of the lot was not in the applicant's control, and he appreciated the addition being jogged to lessen the variance needed.
- B. Unique Situation
  - Member Schillack said the house was built in 1960s, and the standards had changed since.
- C. Not Self-Created
  - Chairperson Spencer said the applicant did not build the house and bought it as it was.
- D. Substantial Justice
  - Member Schillack said the addition would not block neighbor's views.
- E. Minimum Variances Necessary
  - Chairperson Spencer said the applicant chose to jog the addition and not put it directly on the footpath.

**Member Aseltyne MOVED to approve the variances requested by Scott Summers from Article 3.1.5.E and Article 7.28.A of the Zoning Ordinance for Parcel Number 12-28-102-003, identified as 7032 Biscayne Avenue, in order to construct an addition that would encroach 3.4 feet into the required east side yard setback and exceed the allowed value of improvements to a nonconforming structure by 193%. An 18.3-foot variance from the required lot width is also granted from Article 3.1.5.E. This approval will have the following conditions:**

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **An as-built survey shall be required to verify the roof overhang setback from the east side lot line.**
- **The plans shall be revised for consistency to clarify the roof overhang setback.**

**Member Dehart SECONDED, and the motion carried with a roll call vote (5 yes votes):  
(Aseltyne/yes, Dehart/yes, Schillack/yes, Powell/yes, Spencer/yes)**

- c.      Applicant:      David Nemshick  
                                 9323 Gale Road  
                                 White Lake, MI 48386
- Location:      **9323 Gale Road**  
                                 White Lake, MI 48386 identified as 12-11-451-019
- Request:      The applicant requests to construct an addition to a single-family house, requiring variances from Article 3.1.6.E, R1-D Single Family Residential Side-Yard Setback, Front-Yard Setback, and Minimum Lot Width. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures will be required due to both the value of improvements and the increase in cubic content.

Chairperson Spencer noted for the record that 19 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 US Postal Service.

Staff Planner Quagliata gave his staff report.

Member Powell asked staff if the floorplan for the existing structure was submitted. Staff Planner Quagliata said renderings were submitted, but not floor plans. The existing house had two bedrooms, and the addition would contain two more, bringing the total bedrooms after the addition to four.

Member Schillack asked staff if the value of the project was determined after the project was complete. Staff Planner Quagliata said applicants were required to give an estimate to the value of the work being done, as that was how building permit fees were determined. The International Code Council, based on current construction costs, estimated the value of the addition at \$169,000.

Member Aseltyne asked staff what the percentage over SEV the proposed value of work would be. Staff Planner Quagliata said it would be 860%.

Mr. Nemschick, the applicant, was present to speak on his case. He said he requested a 3' variance to allow for a large distance or fire lane on the east side of the house. He would also be able to add a third bay on the east side. He said he would sign paperwork to certify the living space over the garage would not be used as a second dwelling. He said the addition would be connected to the current house, and not separated from the existing structure.

Member Powell asked the applicant how the proposed bedrooms in the addition would be used. Mr. Nemschick said one of the existing bedrooms would be eliminated and made into an office, and the other could be eliminated to widen the living room area. The new bedrooms would be made into a master bedroom and a potential nursery.

Member Aselyne asked the applicant why he didn't want to demolish the current house since the addition was the size of a new house. Mr. Nemschick said it would be inconvenient to tear the entire house down during this time, and he worked from home.

Member Powell stated the applicant could have torn down the existing house and build a new house that would not require variances. The variances, if granted, would run with the land. Mr. Nemschick said his lot was 70' wide and he wanted the requested variances for the side yard for neighbors and himself to get access to the area behind the back of the house.

Member Dehart said if the house was centered on the lot, there would be room on the east side, and lessen the variances requested. Mr. Nemschick said without the garage, there would be 21'.

Chairperson Spencer opened the public hearing at 9:29 P.M. Seeing no public comment, she closed the public hearing at 9:29 P.M.

Staff Planner Quagliata went through the standards from Article 7, Section 37 from the ClearZoning Ordinance:

A. Practical Difficulty

- Member Powell did not see a practical difficulty. A garage could be constructed closer to the existing structure, and there could be architectural changes to lessen the variances needed. Chairperson Spencer and Member Aselyne agreed.
- Member Dehart said the lot was nonconforming. Member Schillack agreed, and saw the practical difficulty regarding the SEV as well.

B. Unique Situation

- Chairperson Spencer said the lot had room to shift the house.

C. Not Self-Created

D. Substantial Justice

E. Minimum Variance Necessary

**Member Dehart MOVED to approve the variances requested by David Nemshick from Article 3.1.6.E and Article 7.28.A of the Zoning Ordinance for Parcel Number 12-11-451-019, identified as 9323 Gale Road, in order to construct an addition that would encroach 3 feet into the required west side yard setback and 12.6 feet into the required front yard setback, and exceed the allowed value of improvements to a nonconforming structure by 860%. A 10-foot variance from the required lot width is also granted from Article 3.1.6.E. This approval will have the following conditions:**

- **The Oakland County Health Division shall certify the on-site water system is properly designed to handle the anticipated additional load prior to issuance of a building permit.**
- **The addition plans shall be reviewed by the Township's Department of Public Services prior to issuance of a building permit.**

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **The principal dwelling unit shall be owner-occupied and the addition shall not be rented separately from the principal dwelling unit.**
- **This approval shall not be interpreted to permit creation of a for-rent apartment, or the conversion of the existing single-family unit into a duplex or the like.**
- **The second-story addition shall not exceed 550 square feet in size.**
- **The second-story addition shall not include more than one (1) bedroom.**
- **The addition shall not exceed the maximum building height of the R1-D zoning district. Architectural plans, drawn to scale, shall be submitted at the time of reapplication for a building permit.**
- **Access to the addition shall be provided from the enclosed connection on the north side of the house. Any other exterior entrance to the addition shall be prohibited.**
- **Exterior alteration/renovation shall not change the overall single-family character of the dwelling unit or the surrounding neighborhood, as determined by the Planning Department.**
- **Prior to issuance of a building permit, the Applicant shall submit a revised floor plan for the addition, which shall be subject to the approval of the Planning Department.**
- **No new street address shall be assigned to the addition.**
- **All utility connections and services shall be shared between the principal dwelling unit and addition. No new meters (electric, gas, or otherwise) shall be installed to serve the addition.**
- **The addition shall not have its own cooking facilities.**
- **Prior to issuance of a building permit, an agreement shall be prepared by the Township Attorney, to be signed by the Applicant and recorded with the Oakland County Register of Deeds, stating the addition shall not be used as a secondary dwelling unit. The agreement shall be binding on the Applicant and all future owners of the property. The Applicant shall be billed the cost of the Township Attorney's fees to draft the agreement.**
- **Any future enlargement or alteration of the addition shall require approval of the Zoning Board of Appeals.**

**Member Dehart asked to amend the motion to alter condition number four to be: the addition shall not be rented separately from the principal dwelling unit.**

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

**Member Aseltyne MOVED to deny the variances requested by David Nemshick for Parcel Number 12-11-451-019, identified as 9323 Gale Road, due to the following reason(s):**

**Failure to meet the variance standards outlined in Article 7, Section 37 of the ClearZoning Ordinance.**

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

The ZBA recessed at 10:05 P.M. The ZBA returned from recess at 10:11 P.M.

- d.      Applicant:      Todd Hammerick  
   26204 Barrington Circle  
   Commerce, MI 48390
- Location:      **8414 Cascade Street**  
   White Lake, MI 48386 identified as 12-36-453-012
- Request:      The applicant requests to construct a single-family house, requiring  
   variances from Article 3.1.6.E, R1-D Single Family Residential Front-Yard  
   Setback, Side-Yard Setback, Lot Coverage, Minimum Lot Area, and  
   Minimum Lot Width.

Chairperson Spencer noted for the record that 30 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 US Postal Service.

Staff Planner Quagliata gave his staff report.

Member Schillack asked staff how close the neighboring house to the west was to the applicant's property. Staff Planner Quagliata said 3.8'. Member Schillack said there was a tree on the west side yard property line.

Member Aseltyne asked staff if the house were smaller, would it be in conformance. Staff Planner Quagliata said in order to comply with the side yard setbacks, the house could only be 20' wide.

Ghassan Abdelnour, 24001 Orchard Lake, Farmington, MI, architect, was present to speak on behalf of the applicant. He was the architect for the previous homeowner when this request was brought in front of the ZBA in October, 2020.

Todd Hammerick, applicant, was present to speak on his case. He said he spoke to his neighbor and the fence on the west would be taken down.

Member Powell asked Mr. Abdelnour where the HVAC system would be placed. Mr. Abdelnour said the HVAC would be in the rear of the house and hidden. Member Powell asked Mr. Abdelnour how gutter drainage would be dealt with. Mr. Abdelnour said a gutter system would be installed. Mr. Powell asked Mr. Abdelnour if adding the dormer created a building height problem. Mr. Abdelnour said no, and Mr. Hammerick said the dormer would be extended laterally, not vertically.

Chairperson Spencer opened the public hearing at 10:30 P.M. Seeing no public comment, she closed the public hearing at 10:30 P.M.

Staff Planner Quagliata went through the standards from Article 7, Article 37, from the ClearZoning Ordinance:

- A. Practical Difficulty
- Chairperson Spencer said the lot was a practical difficulty. Members Dehart and Schillack agreed.
- B. Unique Situation
- Member Dehart said the lot size posed a unique situation.

- C. Not Self-Created
  - Chairperson Spencer said the applicant did not have anything to do with the shape of the lot.
- D. Substantial Justice
  - Member Schillack said most of the surrounding houses had similar view lines.
- E. Minimum Variance Necessary
  - Chairperson Spencer said the applicant was requesting the minimum, as a 20' wide house would not be feasible.

**Member Schillack MOVED to approve the variances requested by Todd Hammerick from Article 3.1.6.E of the Zoning Ordinance for Parcel Number 12-36-453-012, identified as 8414 Cascade Street, in order to construct a new house that would exceed the allowed lot coverage by 26.86%, encroach 10 feet into the required front yard setback, and 5 feet into the required side yard setback from both the east and west property lines. 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.**
- **In no event shall the projection of the roof overhang be closer than five (5) feet to the east and west side lot lines, including the gutters.**
- **No mechanical units, including HVAC system or generator, shall be placed closer than five (5) feet to any side yard property line.**
- **All roof drainage will be picked up in downspouts and pipes to eliminate surface drainage down the property line from the home.**

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

#### **OTHER BUSINESS**

No other business.

#### **ADJOURNMENT**

**MOVED by Member Aseltyne, SUPPORTED by Member Schillack to adjourn the meeting at 10:41 P.M.  
The motion CARRIED with a voice vote (5 yes votes).**

**NEXT MEETING DATE:** July 22, 2021 Regular Meeting