

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 28, 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
Mike Powell, Board Liaison
Clif Seiber
Debby Dehart, Planning Commission Liaison
Niklaus Schillack, Vice Chairperson

Others:

Justin Quagliata, Staff Planner
Hannah Micallef, Recording Secretary

APPROVAL OF AGENDA

Chairperson Spencer added 2024 Meeting Dates under Other Business.

MOTION by Member Powell, seconded by Member Schillack to approve the agenda as amended. The motion carried with a voice vote: (5 yes votes).

APPROVAL OF MINUTES

A. Zoning Board of Appeals Regular Meeting of August 24, 2023

Member Powell stated a word on Page 4, Paragraph 9 should be front, not font.

MOTION Member by Powell, seconded by Member Seiber, to approve the minutes of August 24, 2023 as amended. The motion carried with a voice vote: (5 yes votes).

CALL TO THE PUBLIC

The ZBA welcomed the students attending this evening from Lakeland's AP Government class.

OLD BUSINESS

A. 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.

Staff Planner Quagliata gave a brief report.

John and Gina Smerecki, applicants, were present to speak of behalf of their case.

Member Seiber asked the applicants what the intended use was for the 32-foot-deep garage. Mr. Smerecki said some extra footage would be used for storage.

Member Powell asked the applicants how tall the storage space in the loft would be. Mr. Smerecki said around 6-7 feet. The applicant did not intend to use it for living space.

Chairperson Spencer asked if there was any one in the public who wanted to speak on the request. Seeing none, she closed the public comment at 7:12 P.M.

Member Schillack said this case was a great example of a case being postponed in order to receive a complete application with proper surveys and plans done in advance. He was grateful the applicant provided the information.

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

- A. Practical Difficulty
 - Member Seiber said the width and area of the lot posed a practical difficulty. Member Schillack added the setback from the drywell also posed a practical difficulty.
- B. Unique Situation
 - Chairperson Spencer said the size of the lot was unique. Member Schillack said the lot was narrower at the street than at the lakeside.
- C. Not Self-Created
 - Chairperson Spencer said there was not a self-created hardship.
- D. Substantial Justice
 - Member Seiber said the two adjacent neighboring garages were closer than what the applicant's were proposing. Member Powell said because of the lot size, the house size was smaller and the applicants needed to have storage for lake items. Member Schillack said the reduction in the garage height made the garage similar in height to surrounding garages.
- E. Minimum Variance Necessary
 - Member Schillack said the applicants asked for exactly 10 feet, no more, in regards to the setback from the drywell.

MOTION by Member Dehart to approve the variance requested by John and Gina Smerecki from Article 3.1.6.E of the Zoning Ordinance for Parcel Number 12-36-302-005, identified as 8979 Lakeview Drive, in order to construct an accessory building (detached garage) that would encroach 23.8 feet into the required front yard setback and exceed the allowed lot coverage by 3.1%. A 50-foot variance from

the required lot width and a 4,744.8 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.**
- **A foundation certificate shall be required prior to the backfill inspection by the 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.**
- **The second-story of the garage shall not be used as living space.**
- **No sanitary sewer/septic service shall be extended to the garage.**

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

- B. Applicant: Mykhailo Novoselskyi
7843 Turrillium Lane
Waterford, MI 48327
Location: **9755 Portage Trail**
White Lake, MI 48386 identified as 12-26-177-019
Request: The applicant requests to exceed the allowed value of improvements to a nonconforming structure, requiring a variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures.

Staff Planner Quagliata gave a brief report.

Member Schillack asked staff if the requested variance would result in an amount over what the applicant stated the costs of improvements would be. Staff Planner Quagliata said yes, and staff believed there may be more costs incurred than what the applicant listed.

Aleksander Kudryavstev, 7843 Turrillium Lane, was present to speak on behalf of the case. He said the foundation was proven to be structurally sound, and he had provided a letter stating so from a structural engineer.

Chairperson Spencer asked staff about the timeline for the improvements. Staff Planner Quagliata said the building was considered a dangerous building, and the ZBA could place conditions on approval of the variance to ensure progress was made on the improvements and updates were periodically provided to the Building Division.

Member Schillack added this case was another great example of the ZBA postponing a request in order to receive all of the information and how a complete application could be beneficial for the applicant. This case dealt with safety, and having a structural engineer sign off on the foundation helped him make a decision.

Member Seiber said the current SEV posed a problem for any potential improvements on the site.

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

- A. Practical Difficulty
 - Member Powell said the documents presented this evening made the case the structure was able to be saved. The condition of the house and its current SEV value made for a practical difficulty.
- B. Unique Situation
 - Member Seiber said the established SEV and condition of the house made for a unique situation.
- C. Not Self-Created
 - Chairperson Spencer said there was not a self-created hardship.
- D. Substantial Justice
 - Member Schillack said the property being brought up to code would bring substantial justice to the neighborhood by providing a safe structure as opposed to the current dangerous building.
- E. Minimum Variance Necessary
 - Member Dehart said based on the current SEV, the variance requested was the minimum necessary.

MOTION by Member Seiber to approve the variance requested by Mykhailo Novoselskyi from Article 7.28.A of the Zoning Ordinance for Parcel Number 12-26-177-019, identified as 9755 Portage Trail, in order to repair a nonconforming building and exceed the allowed value of improvements to a nonconforming structure by 4,800%. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Division.**
- **The building permit fee shall be based on a value of improvement of \$60,000.**
- **All improvements shall be completed no later than March 28, 2025, unless extended by the Building Division.**

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

Member Powell said this case was an excellent example of the ZBA being informed and being provided with all the necessary information requested from the ZBA application.

- C. Applicant: Lorena Hawkins
1190 Sugden Lake Road
White Lake, MI 48386
Location: **1190 Sugden Lake Road**
White Lake, MI 48386 identified as 12-33-477-003

Request: The applicant requests to construct an elevated deck within the natural features setback, requiring a variance from Article 3.11.Q, Natural Features Setback.

Staff Planner Quagliata gave a brief report.

Member Powell stated he appreciated the revised dimensions from the applicant.

Michael Hawkins, 1190 Sugden Lake, was present to speak on behalf of the case.

Member Seiber asked Mr. Hawkins if there was a fenced in area to the side of the house, behind the garage. Mr. Hawkins confirmed. Member Seiber asked Mr. Hawkins if the deck could be modified to wrap around into that area. Mr. Hawkins said the well sat north of the house, west of the garage, and wrapping the deck would encroach on the well.

Member Schillack asked Mr. Hawkins why the proposed deck could not be closer to the house. Mr. Hawkins said he was unable to utilize the hill, and building a deck would pose more difficulty in utilizing the property and maintaining it. The house was built in the 1950s and sat close to the lake.

Member Powell stated if the deck was not maintained properly, the grass would die and dirt would replace it, and erode into the lake. Mr. Hawkins said he would do as his neighbors had done and place gravel underneath the deck.

Member Seiber asked Mr. Hawkins if the proposed deck would be longer than the neighbor's deck. Mr. Hawkins said the deck would be about the same distance to the lake as the neighbors.

Member Powell said he was looking at the deck differently because it was up higher than the subaqueous area. Member Seiber said the topography of the lot presented an issue for the applicant. If the slope was not there, the applicant would not have needed a variance. Member Dehart said the applicant was keeping their deck in line with the surrounding area.

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

A. Practical Difficulty

- Member Dehart said the topography of the lot was a practical difficulty.

B. Unique Situation

- Chairperson Spencer said there was a unique situation.
- Member Powell said the deck was proposed to be high enough to avoid the impact to the natural features setback as the ordinance anticipated.

C. Not Self-Created

- Member Dehart said there was not a self-created hardship.

D. Substantial Justice

- Member Schillack said the deck would align with the neighbor's deck.

- Member Powell said the house was old, and substantial justice would be to grant them outdoor living space as the neighbors had. He added they would have use of a part of their property they may not have had use of before, and that their neighbors had been enjoying.

E. Minimum Variance Necessary

- Member Schillack said this was a good example of the land causing the minimum variance necessary.
- Member Dehart said the applicant was asking for the same deck distance to the lake as their neighbors.

MOTION by Member Schillack to approve the variance requested by Lorena Hawkins from Article 3.11.Q of the Zoning Ordinance for Parcel Number 12-33-477-003, identified as 1190 Sugden Lake Road, in order to allow an elevated deck to encroach 8.6 feet into the required Natural Features Setback. This approval will have the following conditions:

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

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

Member Powell said he appreciated the work and effort the applicant put forward to revise and present their plans.

8. NEW BUSINESS

- A. Applicant: Robert Freels
204 Laura Lane
Linden, MI 48451
Location: **8468 Cascade Street**
Commerce, MI 48382 identified as 12-36-453-022
Request: The applicant requests to construct an accessory building (shed), requiring variances from Article 3.1.6.E, R1-D Single Family Residential Front Yard Setback and Maximum Lot Coverage.

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 Schillack asked staff if the request needed additional approvals due to the way some houses on Cascade Street were partly located in Commerce Township. Staff Planner Quagliata said this property was entirely located within White Lake Township.

Member Schillack asked staff if there were prohibitions on encroachment into the front yard setback, similar to the ordinance's language regarding prohibition of any encroachment within five feet of the side yard lot lines. Staff Planner Quagliata said the ordinance prohibited roofs, gutters, windows, and open balconies being within five feet of any lot line. The applicant would need an additional variance for the shed's roof overhang.

Robert Freels, 3571 Commerce, was present to speak on behalf of his case. He said the 2.5-foot requested front yard setback could be adjusted. He was looking for more of a five-foot front yard setback.

Member Powell asked the homeowner what his practical difficulty was in regards to his request. Mr. Beals, homeowner, said he had worked with Township staff and the ZBA to get the house to where it needed to be, and now he needed the shed to store his outdoor equipment. He planned on living on the property for a long time. He said the shed would not be directly up to the road, there was a greenbelt in between.

Chairperson Spencer said staff had to calculate lot coverage because it was not updated on the site plan, and the submitted architectural plan was inconsistent with the site plan. The two plans showed two different dimensions.

Member Powell stated the homeowner was before the ZBA in May, and there was discussion over the location of the existing garage. Member Powell said the applicant did not understand the work the ZBA had done to justify the addition. He was surprised the applicant brought tonight's request before the ZBA to put a shed right off of the road right-of-way. Member Powell said the homeowner had a garage and said he was not in favor of the applicant's request.

Mr. Beals said he was considering put the shed further down on the lot, and because he lived on the lake, there was a lot of things to be stored.

Mr. Seiber asked the applicant if there was a walk out basement. Mr. Freels said no. Member Seiber said if a shed was placed in the rear of the property, it would be permissible with only need a lot coverage variance. If the shed was located opposite the front addition, 10 feet away from the addition, the shed could be located five feet from the side yard property line. There were alternative options for the applicant.

Chairperson Spencer opened the public hearing at 8:33 P.M.

Mary Earley, 5925 Pineridge Court, said she had a problem with houses around lakes; they got junky quickly because of the small lots. She did not know why the applicant needed a 168 square foot shed; it was garage sized. She was opposed to the applicant's request.

Chairperson Spencer closed the public hearing at 8:34 P.M.

Member Dehart asked staff if the applicant bought an 8'x10' shed, would the applicant still need a variance. Staff Planner Quagliata said a lot coverage variance would still be required, but the ZBA could grant a variance for lot coverage and the shed would need to meet setbacks. A condition would be needed to verify the shed location for compliance.

The ZBA discussed postponing the applicant's request so the applicant could come up with a better location for the shed.

MOTION by Member Powell to postpone the appeal of Robert Freels to the next available meeting date after a revised plan was submitted for Parcel Number 12-36-453-022, identified as 8468 Cascade Street, to consider comments stated during this hearing and the additional information that would be submitted by the applicant.

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

OTHER BUSINESS

A. 2024 Meeting Dates

The ZBA reviewed the 2024 dates. Meetings would be the fourth Thursday of every month January-October, and the second Thursday of November and December. Staff Planner Quagliata requested the ZBA's feedback on changing the meeting times to 6:00 P.M. or 6:30 P.M. The ZBA members gave their feedback.

MOTION by Member Schillack, seconded by Member Dehart, to approve the 2024 ZBA Meeting Dates as submitted. The motion carried with a voice vote: (5 yes votes).

NEXT MEETING DATE: October 26, 2023

ADJOURNMENT

MOTION by Member Dehart, seconded by Member Powell, to adjourn at 8:54 P.M. The motion carried with a voice vote: (5 yes votes).