

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
JULY 25, 2024**

CALL TO ORDER

Chairperson Spencer called the meeting to order 6:30 P.M. She led the Pledge Allegiance.

Roll was called:

ROLL CALL

Present:

Jo Spencer, Chairperson

Clif Seiber

Niklaus Schillack, Vice Chairperson

Debby Dehart, Planning Commission Liaison

Michael Powell, Township Board Liaison

Also Present:

Sean O'Neil, Community Development Director

Nick Spencer, Building Official

Andrew Littman, Staff Planner

Hannah Kennedy-Galley, Recording Secretary

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

A. May 23, 2024

MOTION by Member Seiber, seconded Member Powell, to approve the minutes of May 23, 2024 as presented. The motion carried with a voice vote: (5 yes votes).

CALL TO THE PUBLIC

None.

OLD BUSINESS

None

NEW BUSINESS

- A. Applicant: Suzanne Sanders
7774 Pontiac Lake Road
White Lake, Michigan 48386
Location: **7774 Pontiac Lake Road**
White Lake, Michigan 48386 identified as 12-09-476-008
Request: The applicant requests to construct an accessory building (pole barn), requiring variances from Article 5.7.C, Accessory Buildings or Structures in Residential Districts.

Chairperson Spencer noted for the record 6 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.

MOTION by Member Powell, seconded by Member Schillack to recuse Member Dehart from Case 8A. The motion carried with a roll call vote: (4 yes votes) (Powell/yes, Schillack/yes, Seiber/yes, Spencer/yes).

Director O’Neil briefly went over the applicant’s request.

Member Seiber asked Director O’Neil what staff was considering height wise in regards to amending this section of the ordinance. Director O’Neil said the Department was considering raising the height maximum similarly to what was requested this evening.

Member Powell asked Director O’Neil due to the proposed structure being set far back from the principal structure, the boundary survey necessary. Director O’Neil said no, the survey was waived due to the variance requested was in regards to height, not setbacks.

Suzanne Sanders, 7774 Pontiac Lake, was present to speak on her case. The riding arena was for her daughter, who jumped horses competitively. There was a safety issue in regards to the maximum allowed height for the structure when jumping the horses.

Member Powell asked Ms. Sanders what the hardship and why it wasn’t self-imposed. Ms. Sanders said it was a safety issue for her daughter and her horse.

Member Seiber asked Ms. Sanders about the tree line that was to the west of the arena, and if the area could be moved closed to the western tree line. Ms. Sanders said the tree line was thin and there was an existing paddock there.

Member Seiber asked Ms. Sanders if she had considered a different truss that would give more internal height. Ms. Sanders said she asked the architect and builder, and what was presented tonight is what they came up with.

Building Official Spencer said the roof height was related to the span of the roof.

Member Schillack asked Ms. Sanders if there was something unique to the land that made for an hardship. Ms. Sanders said the area was great for the arena due to it being flat.

Member Powell stated that large spans eliminate the ability to use a scissor truss.

Member Powell asked Ms. Sanders if the paddock or the arena was more advantageous to keep closer to her house. Ms. Sanders said the paddock. Member Powell agreed with Ms. Sanders.

Member Powell asked Ms. Sanders if she had spoken with her neighbors to the south. Ms. Sanders confirmed and said the neighbors did not have much to say.

Chairperson Spencer opened the public hearing at 6:55 P.M. Seeing none, she closed the public hearing at 6:55 P.M.

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

- A. Practical Difficulty
 - Member Powell said he saw a practical difficulty in regards to the applicants being able to properly and safely use their property.
- B. Unique Situation
 - Member Schillack said a unique situation was the request; it was thoroughly proper for the property, but wouldn't be able to be done safely with the current zoning ordinance requirements.
- C. Not Self-Created
 - Chairperson Seiber said the applicant wasn't creating the additional height; it was the functional use of a horse arena.
- D. Substantial Justice
 - Member Schillack said granting the variance would allow the property to be utilized safely.
 - Member Powell said surrounding riding arenas had heights suitable for safe horse jumping.
- E. Minimum Variance Necessary
 - Chairperson Spencer said she saw how this was the minimum variance necessary.

Member Schillack MOVED to approve the variances requested by Suzanne Sanders from Article 5.7.C of the Zoning Ordinance for Parcel Number 12-09-476-008, identified as 7774 Pontiac Lake Road, in order to construct a new accessory building that would exceed the allowable height for the roof by 4 feet and for the walls by 2 feet. This approval is conditional on the applicant obtaining all necessary permits from the White Lake Township Building Division.

Member Powell supported, and the motion carried with a roll call vote: (6 yes votes) (Schillack/yes, Powell/yes, Seiber/yes, Spencer/yes).

- B. Applicant: Michael & Quinn Falzon Trust
7551 Haley Road
White Lake, Michigan 48383
Location: **7551 Haley Road**
White Lake, Michigan 48383 identified as 12-16-401-007
Request: The applicant requests a variance from Article 5.10, Swimming Pools, which requires that residential swimming pools be fenced on all sides with a minimum 4-foot high, non-ladderable fence, with any gate to be self-closing and latching. In lieu of installing a fence, applicant seeks to utilize a safety cover on the swimming pool.

Chairperson Spencer noted for the record 8 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.

Director O'Neil briefly went over the applicant's request.

There wasn't a survey included with the request because the variance requested was not of a dimensional nature.

Michael Falzon, 7551 Haley Road, was present to speak on behalf of his case. He said he was on 10 acres, and couldn't see his neighbors. He felt like the ordinance was more applicable to those who lived in smaller lots in subdivisions. He said the cover would be keyed, and the keypad would be inside of the pool. He had three small children, and didn't want safety issues, but he didn't want a fence in his 10-acre yard. He stated Michigan law stated he didn't need a fence, but Township ordinance superseded that.

Member Powell asked Mr. Falzon what his hardship was as to why he couldn't meet the ordinance. Mr. Falzon said aesthetics played into his request, as well as a feeling of being confined on his property.

Member Schillack asked Mr. Falzon if there was an hardship with the land that would prohibit the placement of a fence. Mr. Falzon said the septic field was adjacent to the pool, and constructing footings for a fence would be difficult in that area due to the septic tank and field placement.

Member Seiber asked Mr. Falzon if the pool cover had automatic closure. Mr. Falzon said no, it was due to safety reasons.

Member Seiber asked Mr. Falzon if his objection to the fence was due to aesthetics or cost. Mr. Falzon said both.

Member Dehart asked Building Official Spencer if the retaining wall on site could act as a fence. Building Official Spencer said he would need to look at the retaining wall, but there was a chance it could be used as a barrier.

Chairperson Spencer opened the public hearing at 7:23 P.M.

Mary Earley, 5925 Pineridge Court, stated that the applicant discussed the cost of a fence, but the cost of a life was much greater. A drowning child or adult would be more of an eyesore than a fence. The houses that were able to get the cover should not be considered substantial justice.

Chairperson Spencer closed the public hearing at 7:24 P.M.

Member Powell asked the Building Official Spencer how far the fence could be horizontally and still be considered a fence around the pool. Building Official Spencer said there wasn't a barrier requirement for that.

Member Powell stated he had a home on 25 acres, and a swimming pool as well, and was glad he put a fence around the pool. He couldn't see granting the variance in this instance.

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

1. Practical Difficulty
 - Chairperson Spencer did not see a practical difficulty
2. Unique Situation
 - Member Powell said the uniqueness did not preclude the presented danger.
3. Not Self-Created
 - Member Dehart said it was a self-created hardship.
4. Substantial Justice
 - Member Seiber said he had not seen pools in the Township that weren't fenced.
 - Member Schillack said he didn't see anything about the property that would make it difficult to comply with the ordinance.
5. Minimum Variance Necessary
 - Member Seiber said there wasn't a minimum variance necessary.

Member Seiber MOVED to deny the variance requested by the Michael and Quinn Falzon Trust for Parcel Number 12-16-401-007, identified as 7551 Haley Road, due to the following reason(s):

- 1. The pool cover doesn't automatically close when not in use.**
- 2. The pool cover must be operated by maintaining pressure on the closing switch during the closing and opening operation, making automatic closure impossible.**
- 3. The applicant has not demonstrated a practical difficulty why a fence enclosure with a self-closing and latching gate cannot be installed.**
- 4. Failure to meet the standards from Section 7, Article 37 of the Clear Zoning Ordinance**

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

- C. Applicant: Donald King
3624 Jackson Boulevard
White Lake, Michigan 48383
Location: **3624 Jackson Boulevard**

White Lake, Michigan 48383 identified as 12-07-151-028

Requests: The applicant requests to enlarge and alter a nonconforming structure (house), requiring variances from Article 7.23.A, Nonconforming Structures and Article 3.1.5.E, R1-C Single Family Residential Minimum Side Yard Setback. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures is also required due to 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.

Director O'Neil gave a brief report of the applicant's request.

Member Schillack asked Director O'Neil how far the well was from the house. Director O'Neil said the applicant would need to provide that dimension.

Member Seiber asked Building Official Spencer if the applicant was re-shingling /repairing the roof, would a variance be needed. Building Official Spencer said no, because the cubic content would not be increased in that instant.

Donald King, 3624 Jackson, was present to speak on his case. He said he initially did not intend on increasing the height of the roof, and wanted to rearrange the bedrooms in the house. He was going to keep the existing roof as it was, but was told by two different architects that the windows needed to be raised. The ceiling height on the second floor was 6.4'. He said little people may have built the house. The roof was from the 1930's and cobbled together, and needed to completely come down. The roof wasn't safe. He wanted to raise the roof 18" to be able to install the proper header boards to support the weight of the roof. He did not want to increase the cubic content of the home, but there was no other option and the house would be code compliant. Mr. King wanted to keep the roof structure as it was, but it wasn't going to be safe that way. A custom truss package wouldn't allow for additional space to raise the windows. The footprint of the property would remain untouched. He obtained a corner-to-corner survey of his property as well, and was told the septic field and tank didn't need to be called out.

Member Schillack stated he understood the applicant's request. He was uncertain if the ZBA was legally allowed to grant the variances requested.

Chairperson Spencer opened the public hearing at 7:59 P.M. Seeing none, she closed the public hearing at 7:59 P.M.

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

- A. Practical Difficulty
 - Member Powell said a practical difficulty was presented.
- B. Unique Situation

- Member Seiber said the size of the lot was a unique situation.
 - Member Schillack said the lot configuration was a unique situation as well.
- C. Not Self-Created
- Chairperson Spencer said there wasn't a self-created hardship.
- D. Substantial Justice
- Member Powell said the applicant being able to walk in his home and not hit the ceiling provided substantial justice.
- E. Minimum Variance Necessary
- Member Dehart said the request was the minimum variance necessary.

Member Seiber MOVED to approve the variances requested by Donald King from Article 3.1.5, Article 7.23.A, and Article 7.28 of the Zoning Ordinance for Parcel Number 12-07- 151-028, identified as 3624 Jackson Boulevard, in order to enlarge and alter a nonconforming structure that encroaches 5 feet into the required side yard setback. A 8,508 square foot variance from the minimum lot area is also granted from Article 3.1.5. This approval is conditional on the applicant obtaining all necessary permits from the White Lake Township Building Division.

- **In not event shall the roof, the projection of any roof overhang or roof gutters be located closer than 5' to the side lot lines except for repair of the existing roof within the 5'setback area.**
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Member Powell supported, and the motion carried with a roll call vote: (5 yes votes) (Seiber/yes, Powell/yes, Spencer/yes, Dehart/yes, Schillack/yes).

- D. Applicant: Michael Mocer, Inc.
25201 Alexa Drive
Commerce Township, Michigan 48390
Location: **2927 Ridge Road**
White Lake, Michigan 48383 identified as 12-18-101-018
Requests: The applicant requests to construct a single-family house, requiring variances from Article 3.1.6.E, R1-D Single Family Residential Minimum Lot Area, Minimum Lot Width, Side Yard Setback, Front Yard Setback, Maximum Lot Coverage, Maximum Building Height.

Chairperson Spencer noted for the record 6 owners within 300 feet were notified. 1 letter was received in favor, 0 letters were received in opposition, and 0 letters were returned undeliverable from the U.S. Postal Service.

Director O'Neil briefly went over the applicant's request.

Michael Mocerri, 25201 Alexa Drive, gave a brief presentation on behalf of his request. He said his client was purchasing his mother's home. He said the existing garage was 17' from the front yard property line, and he was requesting 20'. The new garage would be connected to the new house, and primarily use the same footprint of the existing house. He would be requesting a variance from the county for the septic field. He said the home was functionally obsolete, and the lot was unique. He added that Mr. Bippus did not build the home, and the ordinances were not the same when the house was built. He felt substantial justice would to allow his client to build a house similar to what the neighbors had.

Mr. Powell asked Mr. Mocerri what the reason was for not jogging the garage up in line with the house to allow for 10' side yard setbacks. Mr. Mocerri said the septic area posed an issue, and he had already received a verbal denial on the septic. Member Powell said a one car garage would allow for the setbacks to be met.

Member Seiber stated that the neighbor to the south met the front yard setback. He said there was room in the back of the property to push the house back to allow for a greater front yard setback. Mr. Mocerri said he was meeting with a structural soils engineer about the retaining walls, and new walls needed to be built. He felt moving the house closer to the walls would cause wall failure.

Member Seiber stated the rendering showed a steep roof pitch. He asked Mr. Mocerri if the roof could be flattened slightly. Mr. Mocerri said the first floor was 10' in height, and an 8' second floor with cathedral ceilings. Member Seiber asked Mr. Mocerri if a 6/12 pitch would be possible. Mr. Mocerri said no, it wouldn't provide his client substantial justice.

Member Schillack asked Mr. Bippus what was the reasoning for the roof height. Hans Bippus, 2927 Ridge, said his desire was to have a home that was modest in square footage for himself and his wife. He had concerns moving the house closer to the lake. Mr. Mocerri said he would concede to lowering the roof from 30' to 28'.

Chairperson Spencer opened the public hearing at 8:44 P.M.

Mary Earley, 5925 Pine Ridge Court, said not everyone on the lake was allowed to build million-dollar homes and claim substantial justice. The peak of the roof needed to come down.

Chairperson Spencer read one letter in favor of the applicant's request into the record.

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

It was MOVED by Member Powell to postpone the variance requests of Michael Mocerri, Inc. for Parcel Number 12-18-101-018, identified as 2927 Ridge Road, until such time the owner has provided a request to be reheard by the ZBA and information is submitted to help the ZBA make the appropriate decision.

Member Schillack supported, and the motion carried with a roll call vote: (6 yes votes). (Powell/yes, Schillack/yes, Dehart/yes, Spencer/yes, Seiber/yes).

- E. Applicant: Wade Paris
9377 Gale Road
White Lake, Michigan 48386
Location: **9090 Buckingham Street**
White Lake, Michigan 48386 identified as 12-14-280-015
Requests: The applicant requests to construct a single-family house, requiring a variance from Article 3.1.6.E, R1-D Single Family Residential Minimum Front Yard Setback and Minimum Lot Area.

Chairperson Spencer noted for the record 32 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.

Director O’Neil gave a brief report of the applicant’s request.

Building Official Spencer stated that the property was troubled; and had gone before the Dangerous Building Officer before. The house had not had electricity since 2021. The existing house was not salvageable.

Member Schillack asked Building Official Spencer where the well would be located. Building Official Spencer said the existing well was abandoned and the County would dictate the appropriate location for the new well.

Wade Paris, 9377 Gale, was present to speak on behalf of his case. He said both side yard property setbacks would be 14’ and the rear yard setback would be 30’ from the water’s edge.

Member Schillack asked Mr. Paris if there was a reason for not taking advantage of making the house wider. Mr. Paris said he didn’t want the interior of the house to feel shallow. He wanted to leave wider areas between the neighboring houses as well.

Chairperson Spencer opened the public hearing at 9:23 P.M. Seeing none, she closed the public hearing at 9:23 P.M.

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

- A. Practical Difficulty
 - Member Dehart said the lot was shallow and non-conforming
- B. Unique Situation
 - Member Schillack said the building envelope was unique.
- C. Not Self-Created
 - Member Dehart said there wasn’t a self-created hardship.
- D. Substantial Justice

- Member Schillack said the lot would have a functional house on it for the first time in a long time.

E. Minimum Variance Necessary

- Member Dehart said the request was the minimum variance necessary.

Member Powell MOVED to approve the variances requested by Wade Paris from Article 3.1.6.E of the Zoning Ordinance for Parcel Number 12-14-280-015, identified as 9090 Buckingham Street, in order to build a new single-family home that would encroach 6 feet into the required front yard setback. Additionally, a 3,163 square-foot variance from the required lot size is 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. 65 Item E.**
- **No mechanical units, including HVAC system or generator, shall be placed closer than five feet to any side yard lot line.**
- **A foundation certificate shall be required prior to the backfill inspection by the Building Department.**
- **An as-built survey shall be required to verify the approved setbacks and lot coverage.**

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

OTHER BUSINESS

None.

NEXT MEETING DATE: September 26, 2024

ADJOURNMENT

MOTION by Member Powell, seconded by Member Schillack, to adjourn at 9:28 P.M.