

WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
JUNE 27, 2019
7525 Highland Road
White Lake, MI 48383

Ms. Spencer called the regular meeting of the White Lake Township Zoning Board of Appeals to order at 7:00 p.m. and led the Pledge of Allegiance. Roll was called:

ROLL CALL: Debby Dehart - Excused
Mike Powell – Board Liaison
Nik Schillack
Cliff Seiber
Josephine Spencer –Chairperson
Dave Walz – Vice Chair - Excused

Also Present: Jason Iacoangeli, AICP, Staff Planner
Sherri Ward, Recording Secretary

Visitors: 12

Approval of the Agenda:

Mr. Powell moved to approve the agenda as presented. Mr. Seiber supported and the MOTION CARRIED with a voice vote (4 yes votes)

Approval of Minutes:

Zoning Board of Appeals Meeting of May 23, 2019.

Mr. Schillack moved to approve the meeting minutes of May 23, 2019 as presented. Mr. Powell supported and the MOTION CARRIED with a voice vote (4 yes votes)

New Business:

Agenda item: 6a
Appeal Date: June 27, 2019

Applicant: Brian Cisco
Address: 2391 Orchard Lane
White Lake, MI 48386
Zoning: R1-D Single Family Residential
Location: 2391 Orchard Lane
White Lake, MI 48386

Property Description: The property at 2391 Orchard Lane is a single family home zoned R1-D Single Family Residential. The property is located in the English Villas Sub on Pontiac Lake. The home currently uses a private well for water, and the sanitary sewer system for sanitation.

Applicant's Proposal: The applicant is proposing to construct a new 24'x 32' (768 square foot) garage on the north side of the property. The garage would replace a 756 square foot existing non-conforming garage on the north side of the property.

Staff Planner's Report: The applicant is proposing to remove a legal non-conforming garage from the property and replace it with a new 24' x 32' detached garage. The new garage would require a side-yard setback variance in the amount of five (5') feet, placing it five (5') from the property line. Further it would require a rear-yard setback being located only fourteen (14') feet from the rear property line. Also, the fourteen feet is inside the natural features setback requirement of twenty five (25') feet. It will require a variance from this provision as well. The new garage will require a lot coverage variance in the amount of 2.8% with the total lot coverage being 22.8%. The lot meets the minimum lot size for the district being 15,754 square feet of the required 12,000. However the lot is deficient in lot width being only 76 feet of the required 80 for the R1-D zoning.

Ms. Spencer noted for the record that 35 property owners within 300 ft. were notified of the request. There were seven letters received in favor, zero in opposition, and no letters returned undeliverable by the US Postal Service.

Brian & Vivian Cisco (2391 Orchard Lane) were in attendance. Ms. Cisco explained that they have a very small area to access the road at their property and very little parking. She indicated that emergency vehicles would have a hard time there. The existing garage is really not a 2 car garage and they have up to five vehicles parked at the home at times. The current garage has two parts to it and they have to pull across the front yard to gain access to the other side of the garage. They use the street a lot to park when they have company and makes it congested, and they have to back out into the road to get out of their property.

Mr. Seiber looked at the property and there is a low guy wire, does that cause problems? Mr. Cisco has talked with DTE and there are issues with moving it. Mr. Seiber noted that moving the garage will allow them to move around in their drive easier.

Ms. Spencer noted that the letters received in favor were from L. Hansen (2435 Orchard Lane), D. Phillips (2451 Orchard Lane), C. Dawson (2470 Orchard Lane), G. Helzer (2431 Orchard Lane), C. Cook (8975 Tackels), B. Desotell (2441 Orchard Lane), B. Vangorder (2424 Orchard Lane).

Mr. Seiber noted that this represents an improvement for the side yard setback and the front yard setback improves. He'll be more aligned with the neighbor's yard and it will be more usable. There are a lot of positive aspects to this, and it's a good request. Mr. Powell couldn't agree more, the geometrics at the end of the street create a hardship.

Mr. Schillack moved to approve the variance requested by Brian Cisco for the property at 2391 Orchard Lane identified as 12-13-105-009 and 12-13-105-010 in order to construct a garage. The variances requested are as follows: 1) A North side yard setback variance of 5 ft. from the required 10 ft. for an end result of 5 ft. 2) A rear yard setback variance of 16 ft. from the required 30 ft. for an end result of 14 ft. 3) A natural features setback variance of 11 ft. from the required 25 ft. for an end result of 14 ft. 4) A maximum lot coverage variance of 1.6% from the required 20% for an end result of 21.6%. This approval will have the following conditions: Applicant will pull all necessary permits with the White Lake Township Building Department. Mr. Seiber supported and the MOTION CARRIED with a roll call vote: Powell – yes, Schillack – yes, Spencer – yes (it eliminates non-conformances and is in the best interest of safety), Seiber – yes (this is a vast improvement and helps out the neighbors). (4 yes votes).

Agenda item: 6b
Appeal Date: June 27, 2019
Applicant: Ken Strom
Address: 6040 Turnberry Drive
Commerce, MI 48382
Zoning: R1-D Single Family Residential
Location: 1142 Clearwater Blvd
White Lake, MI 48386

Property Description: The property at 1142 Clearwater is zoned R1-D Single Family Residential. The property is located in Round Lake Overlook No 1 on Round Lake. The new home will use a private well for water, and the public sanitary sewer for sanitation.

Applicant's Proposal: The applicant is proposing to construct a new 1,872 square foot home on the property. The home will be approximately 1,332 square feet with an attached 540 square foot garage.

Staff Planner's Report: The new home will require side-yard setback variances on the north and south sides. The northern setback will be five (5') feet of the required ten. On the south side the plan shows the home at seven point seven (7.7') feet from the property line. This would be a setback variance in the amount of 3.3 feet. The home will also require a lot coverage variance being 1.6% over the allowable 20%. Further, the lot is deficient in size being only 8,656 square feet of the required 12,000 square feet for the R1-D District. Also, the home is deficient in lot coverage being 45 feet in width with the required width being 80 feet for the R1-D District. The lot is considered to be legal non-conforming.

Ms. Spencer noted for the record that 64 property owners within 300 ft. were notified of the request. There were zero letters received in favor, zero in opposition, and no letters returned undeliverable by the US Postal Service. There was one anonymous email received, but that will not be read, and it will remain with the file.

Mr. Powell asked Mr. Iacoangeli how we've dealt with this in the past, and he would like his help. The width of the lot is measured on an angle, the actual width is 90 degrees to the sideline. What does the ordinance define as the width of the lot? Mr. Iacoangeli noted that the width of the lot is taken at the front yard setback at the street side. The ordinance speaks to width as to how much frontage at the street. This lot would not be allowed to be created in today's standards. There is a misconception that it's measured at the lake side, it's based on the road frontage.

David Smith (surveyor for the Strom family) was in attendance to discuss the ZBA case. This lot is a unique lot in its design, and there's two 5 foot easements on one side, originally the lot was 50' but has that 5 foot easement. The lot is 41.8 feet perpendicular to itself. It was a difficult lot again because of the 5' easements. Sanitary sewer will be brought down and benefit another new construction across the street. Mr. Smith commented he likes to leave 10 feet between future houses and he's assuming there will be a future house on the other lot.

Mr. Powell asked if Lot 50 is owned in the same title name as lot 49, and it is. Mr. Smith wanted to clarify there was an existing home, and that a demo permit was applied for to demo the existing house.

Mr. Powell asked about the term future access. Are you asking that the 7.7 setback is for the existing owner to go to the lake? Since the owner will probably build on the second lot he's trying to keep as much room in between the two homes. Mr. Powell asked if it would be an easement? Mr. Smith would like to leave as much room as possible in between the future homes. Mr. Powell noted that without making it permanent and in writing, he's asking for a 7.7 setback and not an easement for people to access the lake? There will be no easement, just room between for the future build. Mr. Smith is anticipating a second new build on the adjacent lot.

Mr. Powell stated that other communities recognize that lots are legal nonconforming but they state in their ordinance if you own the adjacent lot you must combine them, and not have two nonconforming lots. Does our ordinance recognize this? Mr. Iacoangeli stated that it does not. Our current ordinance allows for them to be built individually and this situation has originated in the past. Mr. Powell asked if the Township should visit this ordinance for White Lake Township?

Ross Hittinger (1143 Clearwater) was in attendance. He has the adjacent 5 foot easement. Mr. Hittinger noted that in the future the applicant will want a variance on his adjacent lot and the future build and the new home will clutter the neighborhood. He is against the variance.

Martha MacDonald (1225 Clearwater) wanted to go on record to say that the lot is totally flooded all the time. She had a neighboring house built 4' higher than hers that caused drainage problems. She wants to know what type of drainage is proposed, the house is too big for the lot, and she's very concerned about the grading. Ms. Spencer noted that the WLT Building Department will review the proposed grading prior to issuing a building permit.

James Wardrop (1270 Clearwater) is asking about how the sewer would benefit and how would the system work. The road is higher than the proposed home site.

The sewer is a forced main system. For the storm drainage, the house will be 1 ft. or ½ ft. higher than the flood plain. The builder will incorporate a schedule 40 drain system that will go to the lake.

Mr. Powell asked about the setback from the older home that had been demolished? It was probably 2 or 3 feet from the property line.

Mr. Seiber has a few comments, the lots were platted long before WLT had an ordinance. The two 5 easements help mitigate that setback to the north. This one gives him trouble. There is room on the lot and the lots are owned by the same owner and you could meet that. If you're going to build the same one on the other lot, it doesn't look like its available. It's hard to argue hardship since you own the other lot. He wouldn't support the 7.7 foot ordinance.

Mr. Powell wants to make sure the proposed front patio is on the ground. Mr. Smith stated that it is a surface level patio with no roof over it.

Mr. Powell wanted to note that one of the issues in the past is that we've had problems with mechanical units on the side of the homes where we've granted variances. On the north side, he would want to prevent mechanical units being place on the north side of the home. On the south side he wouldn't want it on the required side yard setback. It would need to be put maybe up front on the lakeside. Mr. Smith noted that we would put it on the lakeside.

Mr. Smith wanted to respond to Mr. Seiber's comment. With the second lot we could reduce the variances, but this lot is encumbered by the 5 feet easements. Mr. Smith guaranteed they wouldn't need 5 feet on lot 50. Mr. Powell noted if you reduced the request here, you're forcing them to ask for a variance on lot 50. One way or another they will end up with a variance on the other lot. Mr. Seiber stated that if we give it to them on this lot, they'll probably be back in on lot 50. Mr. Seiber wondered if assessing can't grant a reconfiguration of the lot. Mr. Iacoangeli doesn't think the assessor would allow a lot split for lot 50 combination taking off two feet.

The applicant, Ken Strom, reported that when they bought the pieces of land, he intention was to remodel the home but he found out the home was floating in 5 feet of peat moss. The point is we have really bad soils, and there was no redoing the existing house. They are trying to improve the neighborhood by bringing sewer in.

Mr. Powell estimates that this is an additional 3 feet from the north setback we had before. Mr. Powell appreciates Mrs. MacDonald speaking about the drainage for the record. They have to

maintain all the water on their own property and he hopes the WLT Building Department will pay special attention to this.

Mr. Seiber moved to approve the variance requested by Ken Strom for the property at 1142 Clearwater identified as 12-35-401-009 in order to construct a new home. The variances requested are as follows: 1) A North side yard setback variance of 5 ft. from the required 10 ft. for an end result of 5 ft. 2) A South side yard setback variance of 2.3 ft. from the required 10 ft. for an end result of 7.7 ft. 3) A maximum lot coverage variance of 1.6% from the required 20% for an end result of 21.6% 4) A minimum lot size variance of 3,344 sq. ft. from the required 12,000 sq. ft. for an end result of 8,656 sq. ft. 5) A required lot width variance of 35 ft. from the required 80' for an end result of 45 ft. This approval will have the following conditions: Applicant will pull all necessary permits the White Lake Township Building Department, and no mechanical units will be placed within any side yard setbacks. Mr. Powell supported and the MOTION CARRIED with a roll call vote: Powell – yes (Mr. Powell doesn't believe this will be an overbuilding of the lot, they will bring in sanitary sewer and deal with drainage issues and he's in favor of the variance), Schillack – no (Mr. Schillack appreciates the challenges of the lot but is concerned with the easements), Spencer – yes (The lot is non-conforming and the requests are minimum, this will be an improvement to the area especially with sewer and it eliminates non-conformances and is in the best interest of safety), Seiber – yes (this is a challenging lot with the width and thinks it's a good design of a 29' wide home that fits on the lot). (4 yes votes).

Agenda item: 6c
Appeal Date: June 27, 2019
Applicant: Jim Wolfenbarger
Address: 2335 Ridge Road
Zoning: R1-D Single Family Residential
Location: 2355 Ridge Road
White Lake, MI 48383

Property Description: The property at 2355 Ridge Road is a single family home zoned R1-D Single Family Residential. The property is located in England Beach No. 1 on White Lake. The home currently uses a private well for water, and a private septic system for sanitation.

Applicant's Proposal: The applicant is proposing to demolish the existing home and detached garage and replace it with a new home with an attached garage. The new home will have a ground floor area of 1,860 square feet, the attached garage will be 728 square feet. The combined coverage will be 2,588 square feet.

Staff Planner's Report: After the last Zoning Board of Appeals meeting held on May 23rd it was brought to the attention of the Building Department by the applicant that the home will have a covered porch /deck on the south side of the house. The extent of porch / deck being covered will require a side yard setback as it will be treated as part of the homes living space. The porch will require a five (5') foot side yard setback on the south side of the home for an end result of five (5') feet.

Ms. Spencer noted for the record that 23 property owners within 300 ft. were notified of the request. There were zero letters received in favor, zero in opposition, and no letters returned undeliverable by the US Postal Service.

Ms. Spencer noted for the record that 23 owners were notified, no letters were received in favor, no letters were received in opposition, and no letter were returned via US Mail. The applicant couldn't be here this evening, he had an emergency family meeting.

The porch is question is on the south side. It wasn't given consideration at the last meeting, it was originally shown as a deck but it's a covered porch and requires a variance. Mr. Seiber asked if the variance granted before was on this side? No, it was the other side of the home. Mr. Iacoangeli stated that because it's covered, it requires a variance.

Mr. Powell noted that when this was reviewed last month, they would have been asking for two substantial setbacks and our decision may have been different. If you refer to page 36 you can see that the language just says deck, it doesn't say covered porch. Decks can encroach into side yard up to 5 feet, but this changes things. This variance is solely to allow the covered porch.

Mr. Seiber asked about the adjacent house, their house is probably with 7 or 8 feet of the property line. Michael Liubakka (2365 Ridge Road) wanted to comment as long as everything stays as agreed last time, he is in agreement with the variance, he's on the north side.

Mr. Powell stated that he has been before ZBA's many times in other communities, and you don't necessarily have a right to a three car garage, or a 24 x 24 shed 1 foot off property line. Maybe you don't need to have a covered walkway versus a walkway and he's struggling with that.

Mr. Schillack is feeling that a lot of time was spent on the previous variance for the home, and now we're finding out it wasn't clear. Mr. Seiber asked if we know how wide the deck was proposed last time? The deck was on the plan, it wasn't clear that it was a covered porch

Mr. Iacoangeli noted that because this is architectural, in nature you could make it a condition that this never be enclosed.

Mr. Schillack stated that suddenly putting a roof on could be a matter of visibility and he worries about cutting a view off for the other neighbors. We spent a lot of time last month and now it's something different, it would have changed the entire conversation. It could have changed how we voted.

Mr. Seiber wonders if a table is in order for the applicant to be here. Mr. Schillack appreciates that but this should have come up last meeting. Mr. Iacoangeli stated that in fairness to the applicant, this got picked up by the WLT Building Department when they reviewed their permit application. The applicant came to us and went through the effort to have this addressed.

Architecturally speaking the posts couldn't go in the walkway, they could maintain the jog in the roof by just having an overhang. If they cantilever, it's an architectural feature. Mr. Powell noted that sometimes we can't accommodate everything.

Mr. Powell wanted to discuss the concept of tabling. They can come back with further discussion or redraw with an architectural overhang. Mr. Iacoangeli stated that we have business scheduled for the July meeting already and tabling is fair. This is the same thing they submitted last time, they omitted that the porch was covered and they weren't aware it wasn't covered under the variances granted. We didn't address it at the May meeting, it went before the Building Department and they caught it. When the Building Official reviewed the plans in detail, he noticed the deck had a covered porch and he approved the plans besides this item.

Mr. Powell doesn't have a problem giving the applicant a chance to come back in and discuss the requested variance with the ZBA. Mr. Powell is more comfortable with a table. He wants to go back out and see if the porch will impact any neighbor's views, he'd like that opportunity. Mr. Seiber noted that he would have a problem voting to deny because he wasn't in attendance in May and he hasn't visited the site. If there isn't a column to establish the outside edge of an architectural feature, where would you be comfortable with the width of an overhang? There is a provision in the ordinance about cantilevering.

Mr. Seiber moved to table the variance request of Jim Wolfenbarger for 2355 Ridge Road identified as 12-18-151-024 to consider comments noted during this public hearing and allow the applicant to make alterations to the plans or comments to the ZBA board. Mr. Powell supported and the MOTION CARRIED with a voice vote. (4 yes votes)

Other Business

None.

Adjournment:

The meeting was adjourned at 8:33 p.m.

Next Meeting Date:

July 25, 2019