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WHITE LAKE TOWNSHIP

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WHITE LAKE TOWNSHIP ZONING BOARD OF APPEALS

January 26, 2017

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: Mr. Erlich and Mr. Powell were excused.

ROLL CALL: Joseph Erlich – Chairperson - Excused
Gail Novak-Phelps
Mike Powell – Board Liaison – Excused
Josephine Spencer – Vice Chairperson
Dave Walz - Secretary

Also Present: Jason Iacoangeli, AICP, Staff Planner
Lynn Hinton, Recording Secretary

Visitors: 6

Approval of Agenda:

Ms. Novak-Phelps moved to approve the agenda as presented. Mr. Walz supported and the MOTION CARRIED with a voice vote. (3 yes votes)

Approval of Minutes:

- a. Zoning Board of Appeals Meeting of December 8, 2016

Ms. Novak-Phelps moved to approve the minutes of December 8, 2016 as submitted. Mr. Walz supported and the MOTION CARRIED with a voice vote: (3 yes votes)

New Business:

a.	File 17-001
Applicant:	Cameron Bogard 2082 Kingston St. White Lake, MI 48386
Location:	2082 Kingston St., White Lake, MI 48386, identified as 12-13-155-004
Request:	Variance to Article 5.12 Fences, Walls and Protective Barriers

Ms. Spencer noted for the 21 record that property owners within 300 ft. were notified of the request. No letters were received in favor, no letters were received in opposition, and no letters were returned undeliverable by the U.S. Postal Service.

Mr. Iacoangeli reviewed his report dated January 18, 2017. This is a single family residential home zoned R1-D. The property is part of the English Villas neighborhood located on Pontiac Lake. The home uses the public sewer system and a private well for water. The applicant is requesting a variance from the township fence ordinance in order to be allowed to continue the use of a 6 ft. privacy fence on the south side of the property. Also, the applicant is seeking variances to keep an existing shed that is located 1 ft. from the north property line and 5 ft. from the high water mark of the lake.

The new homeowners at 2082 Kingston have installed a 6 ft. privacy fence from the south side of the property, believing that the fence was "grandfathered" by the ordinance. The Zoning Ordinance does not allow for 6 ft. fences on lake front property. Ordinance 58 states, "On lakefront lots, privacy fences shall be a maximum of 4 ft. in height and shall not be located closer than 30 ft. to the shoreline". The new 6 ft. privacy fence is a violation of the setback requirements for the R1-D District. The shed has a minimum rear yard setback of 30 ft. for the district. Also, a natural features setback requires that the shed be located 25 ft. from any water body or course. The minimum side yard setback for the district is 10 ft. The new shed is in violation of the township Ordinance for side yard and rear yard setback.

Ms. Novak-Phelps asked whether the shed existed prior to purchasing the home. Mr. Iacoangeli indicated that the shed was erected by the current homeowner, and Mr. Bogard confirmed that he built the shed.

Cameron Bogard, 2082 Kingston, White Lake, stated he built the 42 sq. ft. shed to house his lawn equipment. He has since removed half the shed, with the remaining coming down tomorrow. He is trying to conform to what was preexisting with the home when he purchased it. He presented pictures of how the home was when he purchased it. He stated he is trying to enhance the house for the neighborhood. He added that he put the new fence exactly where it was when he purchased the home. He cut the 6 ft. fence down to 4 ft. to comply with the ordinance and to make sure he wasn't blocking anyone's view. Ms. Spencer asked how far he came back from the water's edge. Mr. Bogard stated he came back 15 ft., which is where it was when he purchased the home.

Ms. Spencer noted that once he took the fence down, he lost the non-conformity. Ms. Novak-Phelps added that he could have done a repair, but cannot take it down and put it back up. Mr. Bogard stated that he did repair a portion of the fence. Ms. Spencer indicated that when he did a portion of the fence, he lost the non-conformity and he will either have to take the fence down or bring it into compliance, which would be a 4 ft. fence at a 30 ft. setback from the water.

Mr. Iacoangeli also noted that the finished side of the fence has to face the neighbor. Mr. Bogard stated that the neighbor's side of the fence is still finished. Mr. Walz asked if the wood supports were on the neighbor's side and Mr. Bogard responded that they were. Mr. Walz indicated that the wood supports and in between the boards are considered unfinished, but Mr. Bogard stated the fence looks the same from both sides.

Ms. Spencer opened the public hearing at 7:15 p.m., but no comments were offered. The public hearing was closed at 7:16 p.m.

Since the applicant has stated that the shed is half removed, with the remaining coming down tomorrow, there is no reason to act on the shed this evening. Mr. Bogard asked if he could burn the shed. Mr. Iacoangeli stated he would have to call the fire department with regard to that. Mr. Bogard stated he would just haul the wood away.

Mr. Walz moved to approve the variance from Article 5.12 Fences, Walls and Protective Barriers requested by Cameron Bogard, 2082 Kingston St., White Lake, MI 48386, parcel number 12-13-155-004, in order to retain the use of an existing 6 ft. privacy fence. The variances requested are as follows: A height variance to allow the fence to remain at 6 ft., and to remain within 30 ft. of the water's edge, or the high water mark. This approval will have the following conditions: The applicant will pull all of the necessary permits with the White Lake Township Building Division. Ms. Novak-Phelps supported and the MOTION FAILED with a roll call vote: Novak-Phelps - no (the lot is non-conforming and when the fixture was removed from the property, it cannot be replaced unless it conforms with the ordinance); Spencer – no (the applicant did not erect the fence to the standards set in the ordinance and by removing existing sections of the fence, it lost the non-conforming, and this is a self-created hardship); Walz – no (the hardship is self-created and the applicant must contact the ordinance officer in 10 days to remove it). (3 no votes)

Ms. Novak-Phelps moved to deny the variance requests of Cameron Bogard for the fence height located on the property at 2082 Kingston, parcel 12-13-155-004 in order to retain the use of the newly constructed 6 ft. privacy fence, due to the following reasons: This is a self-created hardship that was created by the applicant. No practical difficulty exists due to a unique situation. The applicant failed to build the fence to the current ordinance standard, even after notification of the deficiency by the White Lake Township Building Official. The applicant needs to contact the Ordinance Enforcement Officer within the next ten (10) business days to discuss the removal of the fence. Mr. Walz supported and the MOTION CARRIED with a roll call vote: Spencer – yes (for reasons stated); Walz – yes; Novak-Phelps – yes. (3 yes votes)

Mr. Bogard stated he is responsible for his home. He will remove his side of the fence, but will not remove the neighbor's fence. He cannot destroy his neighbor's property and there will still be a 6 ft. fence there.

b.	File 17-002
Applicant:	Vincelli Construction 9634 Buckingham White Lake, MI 48386
Location:	9568 Buckingham, White lake, MI 48386, identified as 12-14-201-009
Request:	Variance to Article 3.1.6 R1-D Single Family Residential for side yard setback, front yard setback, lot width, lot size, and lot coverage.

Ms. Spencer noted for the record that 20 property owners within 300 ft. were notified of the request. One letter was received in favor, no letters were received in opposition, and no letters were returned undeliverable by the U.S. Postal Service.

Mr. Iacoangeli reviewed his report dated January 19, 2017. The property 9568 Buckingham, identified as parcel 12-14-201-009 is zoned (R1-D) Single Family Residential. The home is located in the English Villas neighborhood on Pontiac Lake. The home uses a private well and the public sanitary sewer. The applicant is proposing to construct a new attached 16.5 ft. x 5.5 ft. storage addition to the rear of the existing garage. The storage area would require a side yard setback variance of 3.8 ft. for the end result of 6.2 ft. from the property line. This new addition will also place the lot coverage over the allowable 20% for the district. The current lot coverage is 1,274 sq. ft. or 20.27%. This variance was granted 7/26/07. The new lot coverage would be 1,364 sq. ft., bringing the lot coverage to 21.7%. This property has already received variances in 2007 for lot width, lot size, and front yard setback.

Anthony Miller of Vincelli Construction, 9136 Buckingham, stated that they would like to do a small additional footprint on the back of the garage for lawn equipment storage. This will not be living space. His client has a small 1.5 car garage that he'd like to put a car in. He originally had a detached garage removed, but did not realize he needed a variance. This will be non-conditioned space and will allow them to get one of their two cars in it. Also, when they have guests, those guests currently have to impede the road, which causes a safety issue.

Ms. Novak-Phelps asked if this addition would be one story or two. Mr. Miller stated it is a one story structure. Further, it would not be encroaching the side yard more than what the garage already is.

Ms. Spencer opened the public hearing at 7:32 p.m.

Debra Perry, 9565 Buckingham, is in favor of the request. She stated that driving is tight down there and drivers have to weave on the road. If he can get at least one car in his garage, it would help.

With no other comments, Ms. Spencer closed the public hearing at 7:34 p.m.

Ms. Spencer read into record a letter of support from Kathleen Olive, 9578 Buckingham, who indicated they would prefer this plan over the addition of a free standing shed, which would be visible from their property.

Ms. Novak-Phelps moved in File 17-002 to approve the variances from Article 3.1.6 R1-D Single Family Residential requested by Vincelli Construction, for the property at 9568 Buckingham, White Lake, MI 48386, identified as 12-14-201-009 in order to construct a new 90.75 sq. ft. storage addition. Variance (1) a 3.8 ft. east side yard setback from the permitted 10 ft. for an end result of 6.2 ft.; Variance (2) a 1.7% variance to maximum lot coverage from the permitted 20% for an end result of 21.7%; with the following conditions: that the applicant pull all the necessary permits from the White Lake Township Building Department. Mr. Walz supported and the MOTION CARRIED with a roll call vote: Spencer – yes (the request is minimal and by allowing, the safety and welfare of the people on road will be improved); Novak-Phelps - yes (this is within the footprint of the existing home even though non-conforming, and will help with the safety of neighborhood); Walz – yes (for the reasons stated). (3 yes votes)

c.	File 17-003
Applicant:	Gershenson Realty & Investment, LLC 31500 Northwestern Hwy., Ste. 100 Farmington Hills, MI 48334
Location:	10805 Highland Road, White Lake, MI 48383, identified as 12-22-301-015
Request:	Variance to Article 3.1.15 GB General Business, for side and rear yard setbacks, and to Article 5.5.19 for landscaping and screening requirements

Ms. Spencer noted for the record that 10 property owners within 300 ft. were notified of the request. No letters were received in favor, no letters were received in opposition, and no letters were returned undeliverable by the U.S. Postal Service.

Mr. Iacoangeli reviewed the staff report dated January 20, 2017. The property at 10805 Highland Road, identified as parcel 12-22-301-015 is zoned (GB) General Business. The building is the former Kroger store located in the Village Lakes Retail Center. This building is connected to public water and sewer. The applicant is proposing to redevelop the former Kroger store into a Hobby Lobby and Ulta Beauty Store. As part of this redevelopment, the building will be given a new façade treatment and the site will be brought into compliance with the current ordinance.

Some of the site improvements being made include repaving the parking, installing landscaping and installing new lighting.

The following variances from the current ordinance standards would be required for the applicant to receive final site plan approval: Section 5.19.E Interior Landscaping. The current site is already surrounded by existing landscape planting for the Village Lakes Development, both along M-59 and Town Center Blvd. These existing trees do not count as interior landscaping, as they are part of the existing landscape buffer from the right of way. The site is very limited as to areas for new interior landscaping as this is an existing building. Per the review comments of McKenna Associates, the required amount of interior landscaping for this project should be 37,159 sq. ft. The applicant is proposing zero square ft. as part of his plan. Therefore a variance in the amount of 37,159 sq. ft. of interior landscaping would be required. Second, Section 5.19.G Parking Lot Landscaping requires that the applicant supply 53 trees in the parking area of the development. The applicant is proposing planting 33 trees, 20 less than the requirement therefore a variance in the amount of 20 trees is required for the parking lot landscaping.

Ms. Novak-Phelps noted that the parking lot will be removed and irrigation will be installed, which was a concern of hers at the Planning Commission meeting last week. When looking at the property in its current state, the existing blue corrals will be replaced with new landscaping. The Planning Commission approved their site plan without the variances, which had to come to the ZBA. One concern from the Planning Commission was that they didn't want to impede any sight of vehicles driving, so it would require a 4" caliper.

Mark Beroski and Dave Hunter were present from Gershenson. Mr. Beroski agrees with everything that has been said. He gave a brief history of the building and stated they are not changing the building at all. They have had the same challenges as the new Kroger when it was built. He feels they did a good job without compromising the parking and they maxed out with islands, without objection from the tenants, and also made the spaces narrower. If they have to meet the current requirements, they would hinder the vehicle flow for interior landscaping.

Mr. Walz asked how long the warranty is on new plantings. Mr. Iacoangeli stated that the ordinance requires a 2 year cash bond for landscaping and any material that has expired. The township would notify the developer of any mass die-offs. Mr. Beroski indicated that they require this from their landscapers as well. They also own Village Lakes and they do replace plants each year.

Ms. Spencer opened the public hearing at 7:47 p.m. With no comments, the public hearing was closed at 7:48 p.m.

Mr. Walz moved to approve the variance requested by Gershenson Realty & Investment, 10805 Highland Road, parcel 12-22-301-015, or order to redevelop the Mondry Building. The variances requested are as follows: (1) A 37,519 sq. ft. variance from Article 3.1.15 General Business, Section 5.19.E Interior Landscaping for an end result of 0; (2) A variance of 20 trees from the required 53 under Section 5.19.G Parking Lot Landscaping for an end result of 33 trees. This approval will have the following conditions: That the applicant will provide trees at a 4 inch caliper in order to make up for the loss of such a significant amount of trees and overall landscaping. Ms. Novak-Phelps supported and the MOTION CARRIED with a roll call vote; Walz – yes (this is an improvement to the area and it will be enhancement to the overall symmetry); Spencer – yes; (this is a vast improvement from what could have gone in there and by not putting in the required landscaping, this will provide for a more safe environment for pedestrians on the site); Novak-Phelps – yes (this is also a legal non-confirming building and the variances are adequate for pedestrian vehicle safety. (3 yes votes)

Next Meeting Date:

- a. Regular Meeting – February 23, 2017 (possible cancellation)

Adjournment:

Ms. Novak-Phelps moved to adjourn the meeting at 7:52 p.m. Mr. Walz supported and the MOTION CARRIED with a voice vote. (3 yes votes)