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WHITE LAKE TOWNSHIP

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WHITE LAKE TOWNSHIP ZONING BOARD OF APPEALS

September 24, 2015 at 7:00 p.m.

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: All members were present.

ROLL CALL: Robert Artinian – Vice Chairperson
Joseph Erlich – Secretary
Gail Novak-Phelps
Scott Ruggles – Board Liaison
Nik Schllack - Alternate
Josephine Spencer - Chairperson
Dave Walz - Alternate

Also Present: Jason Iacoangeli, Staff Planner
Lisa Hamameh, Township Attorney
Lynn Hinton, Recording Secretary

Visitors: 24

Approval of Agenda:

Ms. Novak-Phelps moved to approve the agenda as presented. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (5 yes votes)

Approval of Minutes:

- a. Minutes of regular meeting of August 27, 2015

Ms. Novak-Phelps moved to approve the minutes of August 27, 2015 as presented. Mr. Artinian supported and the MOTION CARRIED with a voice vote. (5 yes votes)

New Business:

- a. **File 15-020 (Tabled 8/27/15)**
 - Applicant: Michael Slay
2370 E. Rose Center
Highland, MI 48356
 - Location: 1450 Morgan, White Lake, MI 48386
 - Request: Variance to Article 3.1.2 SF Suburban Farms for rear yard setback and lot size.

Ms. Novak-Phelps moved to remove File 15-020 from the table. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (5 yes votes)

Ms. Spencer noted for the record that 13 property owners within 300 ft. were notified of the request. No letters were received in favor, one letter was received in opposition, and no letters were returned undeliverable by the U.S. Postal Service.

Mr. Iacoangeli reported that since the August 27th meeting, the applicant has gone before the Cedar Creek West Homeowners Architectural Review board and has been granted approval for a new garage design. The new design was approved by the review board on August 31, 2015. The new garage design orients the garage to be consistent with the neighborhood by-laws as a side entry garage. The new design will still required the 26 ft. rear yard setback, which is 24 ft. short of the required 50 ft. The lot is still deficient in size per the original review. This home has an existing 3-car attached garage.

Michael Slay (builder for the project), 2370 E. Rose Center, Highland, MI 48356, and Stanley Coutere (homeowner) were present to address the board.

Mr. Artinian stated he likes the new design, and having the stamp of approval by the homeowners association makes him feel more at ease with this request. He thanked the applicant for working with them.

Mr. Ruggles asked what the practical difficulty is. Mr. Iacoangeli stated there really isn't anything as far as the land goes that creates the need for a practical difficulty. This is a large lot and the home currently has an attached 3-car garage.

Mr. Slay stated this is an unnecessary hardship, the access point of the garage was moved, and the accessibility for handicap is more difficult. They want to house the vehicles that are currently outside and are not allowed by the homeowners association. He feels the weather and Mr. Coutere's need for handicap accessibility creates a hardship.

Ms. Novak-Phelps stated that when she drove by the site earlier today, there weren't any vehicles in the garage and it looked like more of a storage facility. Mr. Slay stated there are 4 cars on the property and they will be parked in the new garage. Mr. Artinian noted that the land is not driving a practical difficulty, but rather accessibility for the homeowner. Mr. Slay added that the lot is slightly undersized for what it is zoned for. Trying to get the side access for what the community asks for limits them on where they can locate the garage.

Ms. Spencer opened the public hearing at 7:12 p.m., but no comments were offered and the public hearing was closed at 7:12 p.m.

Mr. Artinian stated he understands the need and request, but the ZBA is bound by law to grant the minimum variance necessary and there has to be a practical difficulty driving the request. He feels there is a legal alternative here, possibly a 1-car garage. Mr. Iacoangeli indicated that the applicant would still require a variance for a 1-car garage. He added that this home already enjoys the luxury of a 3-car garage.

Mr. Artinian moved in File 15-020 to grant the following variances: (1) a 24 ft. rear side yard setback for an end result of 26 ft.; (2) a 0.8 acre variance to minimum lot size for an end result of 1.2 acres. Mr. Erlich supported and the MOTION FAILED with a roll call vote: Spencer – no (there is no practical difficulty, there is an existing 3-car garage and we are not depriving the use of his property); Novak-Phelps – no (the owner has the capability of using the property for its permitted use); Ruggles – no (this case doesn't possess the conditions to get a variance); Erlich – no (there is not a need for a 2-car garage when the existing 3-car garage is not being used the way it's intended); Artinian – no (the land is not

driving a need for the variance and the existing garage is not being used for what it is intended). (5 no votes)

Mr. Artinian moved in File 15-020 to deny the variance requests for the reasons stated in the above motion. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (5 yes votes)

b.	File 15-025
Applicant:	John Abela 11273 Lake Haven White Lake, MI 48386
Location:	11273 Lake Haven, White Lake, MI 48386
Request:	Variance to Article 3.1.5 R1-C Single Family Residential for front yard setback and lot width.

Ms. Spencer noted for the record that 36 property owners within 300 ft. were notified of the request. Two letters were received in favor, one letter was received in opposition, and no letters were returned undeliverable by the U.S. Postal Service.

Mr. Iacoangeli reported that a building permit has been issued for this project, and the project has been started including demolition of portions of the existing garage and the installation of footings. This permit was issued based on the plan submitted by the applicant's contractor. The plans depict the home being 53 ft. from the property line. Once complaints were received by the Community Development Department and the matter was researched, it was found that the existing home is only 36.5 ft. from the front yard setback, and that an additional 16.5 ft. makes up the right of way between the property line and Lake Haven. This garage addition would require a front yard setback of 11.5 ft. This would make the new garage addition 18.5 ft. from the property line. This property is also deficient in lot width with the lot being 92.26 ft. wide of the required 100 ft. for the district.

Vincent Farougi, counsel for the Abela's, 9750 Highland, White Lake, indicated that the Abela's had previously requested variances to house vehicles, but were denied at the June 25 meeting. At some point, the Abela's believed there was a 35 ft. setback requirement from the road. The plans were submitted for the permit based on the new addition being 35 ft. from the road. After the footings went in and they laid the foundation, it was discovered it had to be 35 ft. from the road right of way. The southern border is now considered a front yard setback. He added that the septic field is located in the rear of the home.

He continued that the Abela's need ample storage for vehicles to keep them out of site. The topography of the property is also an issue. The Abela's had a professional survey done, and based on that, they are requesting a 17 ft. variance to the front yard setback. He noted that there have since been letters of support submitted to the office. Ms. Spencer confirmed that the letters were received and she would read them into record during the public hearing portion.

Mr. Farougi continued that the Abela's got a permit from Oakland County Road Commission (RCOC) to remove the side entering drive. This will reduce the amount of pavement exposed and increase green space. The intent is to improve the neighborhood by being able to house vehicles and equipment and improve green space. Ms. Spencer noted for the record RCOC application number 35-555; Permit KD571, issued August 24, 2015.

Ms. Novak-Phelps questioned whether the Abela's made the consideration of building a smaller garage that would not require a variance. Mr. Farougi stated the garage will be 2 cars deep, and 2 cars wide. The southern setback hampers them. They asked to do an out building at the end of the asphalt, but the side access road would not allow that. Ms. Novak-Phelps feels they could make it 1 car, but Mr. Iacoangeli didn't think this was possible.

Mr. Farougi stated this was the misunderstanding with the contractor and township building department with the road right of way. They feel they are hampered with the property and the new garage will enhance and improve the neighborhood and community.

Ms. Spencer opened the public hearing at 7:40 p.m. She read into record letters of support from: John Schmidt, 11295 Lakehaven; and Cathy Oaten, 11296 Lakehaven; and a letter of opposition from Brad Stevens, 11250 Lakehaven. She also noted a petition supporting the request was signed by 16 neighbors.

Jack Kalmanek, 11135 Lakehaven, indicated he lives two doors down from the Abela's. He doesn't feel Mr. Abela is telling the complete use for his property, based on his personal conversation with him. He intends on expanding the garage to allow for a lift so he can work on cars. He's hoping the ZBA will stop the variance now, which it would ultimately save Mr. Abela money. An auto service center from this zoning district should not be allowed.

Danielle Turner, 11385 Brigham Lane, stated she didn't want to see the giant structure when she pulls into the neighborhood, which is why she objects. She thinks he can build a 1-car garage within the zoning and not require a variance. To allow this would open doors for others and eliminate the nice cohesive atmosphere of the neighborhood.

John Link, 11826 Lakehaven, is opposed for the reasons stated by Ms. Turner.

Russ Deladurantaye, 11264 Lakehaven, stated he is opposed since this would be 30 ft. off the road. When he built his home, he opted for the furthest setback he could get. Now, all he can see is the Abela's garage. He also doesn't see any brick ledge, which is a requirement of the subdivision, as is a side entry garage.

David Need, 11285 Lakehaven, questioned how this got so far, getting permission to build when it was obvious he didn't meet the setbacks. He called the township before Mr. Abela poured the footings. Why did it take so long after the fact to stop construction? The township didn't due its due diligence and now Mr. Abela is heavily invested. There have been confrontations and the police have been there.

Tim Croteau, 11278 Lakehaven, stated that the ZBA already voted against this and offered the opportunity for another location. He's not convinced the plans submitted and approved by the building department is what is actually on the site. Putting the existing trailer in front of the garage will now put it in close to the street. The trailer is there and 2 cars were in the intersection at the same time. This is also a bus stop for 3 schools across the street. Sight is already limited and the Abela's put up arborvitaes, which will grow bigger. He is concerned with this safety issue.

With no other comments, Ms. Spencer closed the public hearing at 7:58 p.m.

Mr. Farougi commented on the points raised by Mr. Croteau. He noted that the garage addition is to house trailers and other vehicles. Mr. Artinian stated that the land has to drive the changes. Mr. Farougi noted they have a side access road that is considered a street with a front yard setback. He referenced the survey and noted they are also limited by where the septic is located, which is behind the house. Mr. Artinian noted that the survey does not show where the septic is located.

Mr. Farougi continued that when complete, there will be a shorter driveway and the garage will still be 35 ft. from the road. They are still pretty far set back and they are tearing up a large strip which will be replaced with grass, and they will house the vehicles that are on the lot now. This will improve the values of other properties. There are 16 neighbors who are not opposed and regardless of wherever mistakes were made and whatever approvals were done, they are at the point where they only have to frame and shingle. He understands that economic hardship is not a consideration, but they didn't intend to be here, they intended to comply.

Mr. Artinian stated that this is a tough decision. There are good folks for and against this. He has to ask whether a problem with this land is keeping Mr. Abela from using the land for its intended use, and the answer is no. He hopes that the neighbors can all get along.

Mr. Ruggles agrees that this is unfortunate, and feels for Mr. Abela for what he's already done, but he has to think of the safety, health and welfare of the residents and there is a reason for having setbacks in place. He also does not see a practical difficulty with the land. There was a lot of work done and it's unfortunate the measurements were off, but he also can't consider financial burdens.

Mr. Ruggles moved in File 15-025 to grant the following variances: (1) a 17 ft. front yard setback variance from the required 35 ft., for an end result of 18 ft.; (2) a 7.4 ft. variance to required lot width from the required 100 ft., for an end result of 92.26 ft. Mr. Erlich supported and the MOTION FAILED with a roll call vote: Artinian – no (there is no reason that the land is denying him the use of his property for its intended use); Ruggles – no (for the reason of safety, health and welfare of the residents, and this doesn't qualify for conditions required for a variance, there is no practical difficulty); Erlich – no (the property cannot support what he's trying to do); Novak-Phelps – no (there is no practical difficulty demonstrated and no extraordinary circumstances); Spencer – no (there is no practical difficulty, this is a self-created hardship, and we are still allowing the applicant to enjoy property rights similar to those in the area. (5 no votes)

Ms. Novak-Phelps moved in File 15-025 to deny the variance request because there is no practical difficulty, no extraordinary circumstances, and this is a safety, health and welfare issue, as stated in first motion. Mr. Artinian supported and MOTION CARRIED with voice vote. (5 yes votes)

c.	File 15-023
Applicant:	Craig Johnson 1295 Villa Rd. Birmingham, MI 48009
Location:	387 Hillwood, White Lake, MI 48383
Request:	Variance to Article 3.1.6 R1-D Single Family Residential for lot width, front yard and side yard setbacks.

Ms. Spencer noted for the record that 26 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 September 15, 2015. This is a single family residential home zoned R1-D. The property is part of the Brendel Heights neighborhood, and is located on Brendel Lake. The home uses a private septic system and a private well. The applicant is proposing to construct a 670 sq. ft. attached garage and home addition. Based on the grade of the home, a 120 sq. ft. basement space will also be added under this addition.

The garage and home addition will require a front yard setback variance of 20.5 ft. for an end result of 9.5 ft. The existing home is currently set back 9.5 ft. from the front property line. The addition will also require a side yard setback variance. The new addition will be approximately 6 ft. from the western property line, from the required 10 ft. The lot is deficient in the required width for the district with 75 ft. of the required 80 ft.

Ms. Novak-Phelps noted that the picture of the garage was submitted with the application, but when she drove by, the garage has since been torn down.

Gary Farthing stated there are two pre-existing non-conformities. The new garage will follow the line of the house. He said the old garage was falling down and a hazard so they had it torn down. They would like to use the same footprint, but increase the length. They are trying to update the house to make it a usable space. The grade was lower than the street and water was flowing down into the old garage. They want to lift the new garage up and conform it with the rest of the house. The septic field location limits the placement of the new garage.

Ms. Spencer opened the public hearing at 8:25 p.m.

Lauretta D'Angelo, 411 Hillwood, stated she is in favor of the request.

Ms. Novak-Phelps moved in File 15-023 to grant the following variances: (1) a 20.5 ft. front yard setback variance from the required 30 ft., for an end result of 9.5 ft.; (2) a 4 ft. variance to the west side yard setback from the required 10 ft., for an end result of 6 ft.; (3) a 5 ft. variance to lot width from the required 80 ft., for an end result of 75 ft. and to add downspouts and gutters. Mr. Ruggles supported and the MOTION CARRIED with a roll call vote: Novak-Phelps – yes (there is a practical difficulty, this is a unique situation and the home would meet the feel of the other properties in that neighborhood); Spencer – yes; there is a practical difficulty, the applicant is asking for minimal variances and using the same footprint of what was there but no longer there); Ruggles – yes (for the reasons stated, and the property presents a practical difficulty); Artinian – yes (for reasons stated and they are not increasing the non-conformity, but the 3rd request is pre-existing); Erlich – yes (there is a practical difficulty and this would improve the neighborhood). (5 yes votes)

d.	File 15-027
Applicant:	Vincelli Construction & Restoration 9529 Buckingham White Lake, MI 38386
Location:	9529 Buckingham, White Lake, MI 48386
Request:	Variance to Article 3.1.6 R1-D Single Family Residential for front and rear yard setbacks, lot size, lot coverage and natural features setback.

Ms. Spencer noted for the record that 36 property owners within 300 ft. were notified of the request. No letters were received in favor, no letters were received in opposition, and two letters were returned undeliverable by the U.S. Postal Service.

Mr. Iacoangeli reviewed his report dated September 15, 2015. This is a single-family residential property zoned R1-D. It is located in the English Villas Subdivision on Pontiac Lake. The home uses a private well and the public sanitary sewer system. The applicant is proposing to construct a 24x24 ft. detached garage on the eastern side of the property.

The garage addition in the eastern portion of the lot will require a front yard setback of 21 ft. for an end result of 9 ft. The new garage will require a rear yard setback in the amount of 7 ft. for an end result of 23 ft. Also, the garage will require a natural features setback variance of 2 ft. for an end result of 23 ft. The natural features setback is 25 ft. from any watercourse or waterbody. The garage will require a variance for lot coverage of 20.6%, which is .6% over the allowable coverage. The garage will also need a variance to lot size, as the current lot is 11,136 sq. ft. of the allowable 12,000 sq. ft. for the district. It should be noted that this has an existing attached 2-car garage that is approximately 20x22 ft.

Anthony Miller of Vincelli Construction, 9634 Buckingham, noted there may be discrepancies regarding lot coverage. He is showing they are taking 13%, but Mr. Iacoangeli stated they are .6% over.

Mr. Miller continued that this is a special area with how the subdivision was designed. The current home and property is 7 ft. from the road and the proposed detached garage will be 9 ft. from road. This is a dead end on a peninsula and he doesn't see where this will impede the neighbors. They are 75 ft. from the neighbor's structure. He added that this will allow to tie the 3 lots together as one development and not put another residential in the area. Mr. Iacoangeli confirmed that there are 3 lots here, but only 1 sidwell number.

Mr. Erlich asked if there was a garage now. Mr. Miller stated there is a one-car garage attached to the structure. They are proposing to add on the east side, which will give adequate parking in the driveway. The door will be on the east side of structure so it will not impede in the road. The current garage has an 8 ft. wide door and is 21 ft. deep.

Mr. Artinian stated he is looking for the practical difficulty. Mr. Miller questioned whether the English Villa Subdivision itself could be a practical difficulty, but Mr. Artinian stated it could not, and the board could not increase the non-conformity. The land has to drive the variance. There seems to be a legal alternative, by reducing the size.

Mr. Miller stated he is asking for a variance on the road that is 20 ft., he would only end up with 4 ft. if he attached the garage and made it 1-car. The proposed garage is 24x24 with 10x20 inside space. There is a mud area with stairs that go into that space.

Mr. Erlich asked what the distance was between the existing garage door and the front door, as the garage door looks smaller than the space next to it. Mr. Miller stated there is 6 ft. between the two and there is a foot on each side of the space inside, with a staircase and hallway mud area that goes into the house. He added that they would be keeping with the current accents of the house and he doesn't feel they are asking for anything out of the ordinary for the neighborhood.

Mr. Ruggles noted that if the garage was a little smaller, variances could be reduced and he could get away from the natural features setback. There is a legal alternative here. He can maintain the look, just not as wide by attaching it to the house.

Ms. Spencer opened the public hearing at 8:50 p.m. With no comments offered, the public hearing was closed at 8:50 p.m.

Ms. Spencer noted that Mr. Miller has the option of being tabled to review an alternate plan with his client. Mr. Miller requested to be tabled.

Mr. Artinian moved in File 15-027 to table until a later date. Ms. Novak-Phelps supported and the motion carried with a voice vote. (5 yes votes)

Next Meeting Date:

- a. Regular Meeting – October 22, 2015

Adjournment:

Mr. Artinian moved to adjourn the meeting at 8:50 p.m. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (5 yes votes)