

WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS-REGULAR MEETING
JULY 23, 2020
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
 Mike Powell
 Nik Schillack
 Clif Seiber
 Dave Walz – Vice Chair, Excused
 Josephine Spencer –Chairperson

Also Present: Justin Quagliata, Staff Planner
 Hannah Micallef, Recording Secretary

Visitors: 1

Approval of the Agenda:

Mr. Powell MOTIONED to approve the agenda as presented. Mr. Schillack supported and the MOTION CARRIED with a voice vote (5 yes votes).

Approval of Minutes:

Zoning Board of Appeals Regular Meeting June 25, 2020.

Mr. Schillack noted that on the top of page 8, there was a typo. Ms. Dehart MOTIONED to approve the regular meeting minutes of June 25, 2020 as amended. Mr. Seiber supported and the MOTION CARRIED with a voice vote (5 yes votes).

New Business

- a. Applicant: Andre’ B. Neumann
 267 Lakeview Drive
 White Lake, MI 48386
- Location: **267 Lakeview Drive**
 White Lake, MI 48386 identified as 12-26-179-029
- Request: The applicant requests to construct an addition on an existing one-story house, requiring a variance from Article 3.1.6.E, R1-D Single Family Residential Front-Yard Setback and Article 7.28.A, Repairs and Maintenance

is required due to the value of improvements and increase in cubic content on a nonconforming structure.

Property Description

The approximately 0.421-acre (18,338.76 square feet) parcel identified as 267 Lake View Drive is located within the Cedar Crest No.1 Subdivision and zoned R1-D (Single Family Residential). The existing house on the property (approximately 772 square feet in size) utilizes a private well for potable water and a private septic system for sanitation. The corner lot also contains frontage on Bramblebrae Drive and the majority of the site driveway is located in the Lake View Drive right-of-way.

Applicant's Proposal

Andre' B. Neumann, the applicant, is proposing to construct a two-story addition to the existing single-story house and has indicated the foundation for the proposed addition would be slab-on-grade.

Planner's Report

The existing house was built in 1927 and is considered nonconforming because it does not meet the 30-foot front yard setback. The proposed 1,027.80 square foot two-story addition would connect the existing house on the south side of the property with a detached garage on the north side of the property. At its closest point the proposed addition would encroach 19.6 feet into the required 30-foot front yard setback.

The garage would be part of the principal structure if connected with the proposed addition, and therefore would be subject to the principal structure setback requirements of the R1-D zoning district. The garage would be considered nonconforming if it becomes part of the house because it does not meet the 30-foot front yard setback.

Article 7.28 of the zoning ordinance states maintenance to nonconforming structures cannot exceed fifty percent (50%) of the State Equalized Valuation (SEV) in repairs in any period of twelve (12) consecutive months. Further, the ordinance does not allow the cubic content of nonconforming structures to be increased. Based on the SEV of the structure (\$62,260), the maximum extent of improvements cannot exceed \$31,130. The value of the proposed work is \$100,000. A variance to exceed the allowed value of improvements by 321% is requested.

Mr. Neumann was present. He said that his house was too small, and the only option to make the house bigger would be the addition. The addition would be 2' farther from the property than the existing house.

Ms. Spencer asked if the Planning Commission needed to review the section of the ordinance regarding SEV and nonconforming structures. Mr. Powell spoke with the Planning Department, and they were reviewing this matter. He also added that many of the older structures exceed the maximum amount of

percent improvement. All situations are all different, but with this case, the applicant would have to rebuild their home and subsequently change their well and septic field build in compliance

Ms. Dehart said this same topic was brought up last meeting. Each case was considered by the ZBA individually, and stands on its own.

Ms. Spencer noted for the record that 27 owners within 300 feet were notified. No letters were received in favor, 0 letters were received in opposition and 0 letters were returned undeliverable from the US Postal Service.

Ms. Spencer opened the public hearing at 7:14 P.M. Seeing none, she closed the public hearing at 7:14 P.M.

Mr. Seiber asked staff if the 19.6' variance was required because the addition would be attached to the garage? Mr. Quagliata confirmed the variance was for the addition, and when the project was completed the garage would be attached to the house. The side yard setback would be met, the front setback would not be met.

Mr. Powell pointed out that in this case, although the applicant didn't point it out specifically, the site plan showed an odd road right-of-way. It jogged in front of the applicant's house and moved toward the home. The requested variance would have been reduced if the right-of-way were more normal. This created a unique circumstance.

Mr. Seiber MOTIONED to approve the variances requested by Andre' Neumann from Article 3.1.6.E and Article 7.28.A of the Zoning Ordinance for Parcel Number 12-26-179-029, identified as 267 Lake View Drive, in order to construct an addition that would encroach 19.6 feet into the required front yard setback and exceed the allowed value of improvements to a nonconforming structure by 321%. This approval will have the following conditions:

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 3.1.6. E	Front yard setback	30 feet	19.6 feet	10.4 feet
2	Article 7.28. A	Nonconforming structure	50% SEV (\$31,130)	321%	\$68,870 over allowed improvements

- The Applicant shall obtain all necessary permits from the White Lake Township Building Department

Ms. Dehart supported, and the MOTION CARRIED with a roll call vote (5 yes votes):

Powell: YES, there was a non self-imposed hardship due to an inconsistent right of way line, the addition would be an improvement for the applicant and the entire neighborhood.

Schillack: YES, for the reasons stated and he appreciated the applicants working with the Township.
Seiber: YES, the addition would not encroach closer to the front lot line than the existing house.
Spencer: YES, for the reasons stated.

- b.** Applicant: Gary Fulkerson
10185 Elizabeth Lake Road
White Lake MI, 48386
- Location: **10185 Elizabeth Lake Road**
White Lake, MI 48386 identified as 12-27-227-013
- Request: The applicant requests to construct an addition, requiring a variance from Article 3.1.5.E, R1-C Single Family Residential Side-Yard Setback and Article 7.28.A, Repairs and Maintenance is required due to the value of improvements and increase in cubic content on a nonconforming structure.

Property Description

The 0.606-acre (26,400 square feet) parcel identified as 10185 Elizabeth Lake Road is located within the Baker Beach No. 1 subdivision and zoned R1-C (Single Family Residential). The existing house on the property (approximately 2,067 square feet in size) utilizes a private well for potable water and a private septic system for sanitation.

Applicant's Proposal

Gary Fulkerson, the applicant, is proposing to construct an addition to the existing house and has indicated the foundation for the proposed addition would be slab-on-grade.

Planner's Report

The existing house was built in 1951 and is considered nonconforming because it does not meet the 10-foot side yard setback or the 35-foot front yard setback. In 2012 the Zoning Board of Appeals approved variances to expand the nonconforming structure with an addition and attached garage. The following variances were previously granted:

- 20-foot variance from required lot width
- 13-foot variance from the front yard setback
- 4.15-foot variance from the west side yard setback
- 3.9-foot variance from the distance to the neighbors (applicant's contribution to total of 20 feet)

The proposed addition would be 690 square feet in size and would encroach 4.15 feet into the required 10-foot side yard setback and, while expanding the nonconformity, would maintain the 5.85-foot west side yard setback approved in 2012.

Article 7.28 of the zoning ordinance states maintenance to nonconforming structures cannot exceed fifty percent (50%) of the State Equalized Valuation (SEV) in repairs in any period of twelve (12) consecutive months. Further, the ordinance does not allow the cubic content of nonconforming structures to be increased. Based on the SEV of the structure (\$136,670), the maximum extent of improvements cannot exceed \$68,335. The value of the proposed work is \$75,000. A variance to exceed the allowed value of improvements by 110% is requested.

Mr. Powell asked the applicant where in relation to the home was the septic field located? Mr. Fulkerson was present, and said the addition would be located 10' from the septic field.

Mr. Fulkerson said the house was less than 6' from the property line. The house was initially built as a cottage and was 1 bedroom, and the addition would be an ensuite.

Ms. Dehart asked staff if the requested variance was consistent with the variance granted in 2012 for the side yard setback? Mr. Quagliata confirmed.

Ms. Spencer noted for the record that 24 owners within 300 feet were notified. No letters were received in favor, 0 letters were received in opposition and 0 letters were returned undeliverable from the US Postal Service.

Ms. Spencer opened the public hearing at 7:29 P.M. Seeing none, she closed the public hearing at 7:30 P.M.

Mr. Powell commended the applicants; he was impressed with the architecture and details of the home. He pointed out that there may have been miscalculation on the value of the property. The value of the addition did not seem over 50% of the value of the house. Mr. Quagliata pointed out the amount in question was the SEV, not the market value.

Mr. Schillack **MOTIONED** to approve the variances requested by Gary Fulkerson from Article 3.1.5.E and Article 7.2.A of the Zoning Ordinance for Parcel Number 12-27-227-013, identified as 10185 Elizabeth Lake Road, in order to construct an addition that would encroach 4.15 feet into the required side yard setback and exceed the allowed value of improvements to a nonconforming structure by 110%. This approval will have the following conditions:

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

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 3.1.5. E	Side yard setback	10 feet	4.15 feet	5.85 feet

2	Article 7.28. A	Nonconforming structure	50% (\$68,335)	110%	\$6,665 over allowed improvements
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Ms. Dehart supported the motion, and the MOTION CARRIED with a roll call vote (5 yes votes):

Dehart: YES, because the addition would not exceed the side yard setback that existed on the property and the addition would be an improvement to the structure.

Schillack: YES, for the reasons stated, and the addition would be an improvement to the neighborhood.

Powell: YES, for the reasons stated.

Seiber: YES, the approval would be consistent with the variance granted in 2012.

Spencer: YES, the addition was an improvement for the applicants and the neighborhood.

- c.) Applicant: Jim Wolfenbarger
 2355 Ridge Road
 White Lake MI, 48386
- Location: **2355 Ridge Road**
 White Lake, MI 48386 identified as 12-18-151-024
- Request: The applicant requests to demolish the existing house and detached garage and construct a new house with an attached garage, requiring a variance from Article 3.1.6.E, R1-D Single Family Residential Side-Yard Setback.

Property Description

The 0.341-acre (14,337 square feet) parcel identified as 2355 Ridge Road is located on White Lake within the England Beach No. 1 subdivision and zoned R1-D (Single Family Residential). The existing house on the property (approximately 1,152 square feet in size) utilizes a private well for potable water and a private septic system for sanitation.

Applicant’s Proposal

Jim Wolfenbarger, the applicant, is proposing to demolish the existing house and detached garage and construct a new house with an attached garage totaling 3,578 square feet in size.

Planner’s Report

On May 23, 2019 the Zoning Board of Appeals approved a variance request from the applicant to construct the house. Variances are valid for a period of six months from the date of approval, unless a building permit is obtained within such period and the work associated with the variance is started and proceeds to completion in accordance with the terms of the building permit. The applicant did not

obtain a building permit within six months of approval so the variance expired and is void. The following variances were previously granted:

- 3-foot variance from the north side yard setback
- 40-foot variance from the required lot width

On July 25, 2019 the Zoning Board of Appeals denied a variance request to allow a covered deck/porch to encroach five feet into the south side yard setback.

The request had not changed since the 2019 approval, with the exception that the deck/porch would not be covered.

The lot width variance was not being requested because it was associated with the land, not the structures or setback.

Ms. Spencer asked staff about the nonconforming boathouse. Part of the boathouse may extend over the property or be on the property line. Mr. Quagliata added the boathouse appeared to overhang the side lot line. Ms. Spencer asked staff if the ZBA would be in violation by requiring the boathouse to be in compliance. Mr. Quagliata said the ZBA had the authority to make that a condition of the motion.

Mr. Powell asked staff if the ordinance allowed structures like boathouses between a house and lake? Mr. Quagliata said the current ordinance did not allow boathouses, so any accessory structure would need to be 25' from the lake and 5' from the side lot line.

Ms. Dehart had concerns about the boathouse, since the original house was going to be demolished and a new house built in its place. Mr. Quagliata said this case was an opportunity to make the boathouse compliant. The scope of work may lend itself to requiring the boathouse be brought into compliance.

Jim Wolfenbarger was present via phone. He explained boathouses were a common structure along the shoreline. The deck on the top of the boathouse extended over the property line, and by removing the deck, the structure would be contained on the property. The boathouse was built into the hill side, and if removed, retaining the hillside would be an issue.

Mr. Schillack had questions regarding the height of the proposed house. Mr. Wolfenbarger said there was not a height variance being requested. He also added the air conditioner would be located on the south side of the house to accommodate neighbor's concerns of placement.

Ms. Spencer noted for the record that 23 owners within 300 feet were notified. No letters were received in favor, 0 letters were received in opposition and 0 letters were returned undeliverable from the US Postal Service.

Ms. Spencer opened the public hearing at 7:51 P.M.

Mike Liubakka, Beth Hanlon, 2365 Ridge Road. He submitted a letter of opposition directly to the Planning Department and discussed the communication.

Ms. Spencer closed the public hearing at 7:55 P.M.

Ms. Dehart asked the applicant if the 3' variance for the side yard setback on the north side could be spilt to 1.5' on both sides. Mr. Wolfenbarger said it could be considered. The south side yard was left open for the air conditioner. The plan had changed several times, and he had tried to accommodate the neighbors especially in regard to the house setback from the traverse line. He had been waiting on a final decision from the homeowners, and that was why the variance expired. He asked if the ZBA would consider a combined total of 17' on both sides, 7' minimum on one side.

Mr. Schillack said he was uncomfortable allowing ranges of feet.

Mr. Powell said the request was not published in a way that allowed the ZBA to consider a total combined setback.

Ms. Dehart asked the applicant if there was a reason the 3' was requested on the north side. Mr. Wolfenbarger said the existing home and front entry were on the north side. The homeowners wanted the new house to retain that configuration.

Mr. Powell asked the applicant what the existing home's setbacks were. Mr. Wolfenbarger said the home was 5' from the north side, and the new house would be back 2' further. The existing setback on the south sides was 5' and 10'.

Mr. Seiber was concerned with the boathouse deck, and stated it needed to be removed to eliminate the encroachment on the neighbor's property.

Mr. Powell said the homeowners to the north had a view of the lake that not many others had. They had a view overtop of the existing structure. He didn't believe the height of the building was an issue. He also added that boathouses are not permitted anymore, and he would consider it a removal of history if the whole structure was removed. He said the roof needed to be pulled back. He said were on the property line. If the tree was on the property to the north, special care needed to be put in place to save it. If the tree started to die, one of the homes could potentially be crushed. He was comfortable with the house setback from the lake. He stated the air conditioner needed to be on the south side of the house, and wanted the motion to include downspouts so the storm water directed to the lake.

Mr. Powell MOTIONED to approve the variance requested by Jim Wolfenbarger from Article 3.1.6.E of the Zoning Ordinance for Parcel Number 12-18-151-024, identified as 2355 Ridge Road, in order to construct a new house that would encroach 3 feet into the required side yard setback. This approval will have the following conditions:

- The Applicant shall obtain all necessary approvals from the Oakland County Health Division prior to issuance of a building permit.
- The Applicant shall obtain all necessary permits from the White Lake Township Building Department.
- The new house setback from the lake shall be 45 feet from the traverse line.
- Any mechanical units shall be placed on the south side of the house.
- A discussion be held with the neighbor to the north regarding the future of the tree on the property line.
- The deck over top of the boathouse be cut back to have no encroachment off the north lot line.
- Gutters, downspouts and a storm line be placed on both sides of the new house and directed down the hill to eliminate water problems between properties and to prevent erosion of the hill.

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 3.1.6. E	Side yard setback	10 feet	3 feet	7 feet

Mr. Seiber supported, and the motion carried with a roll call vote (5 votes):

Powell- YES, there was a hardship due to the small lot and a hill on the property. The applicant had worked hard minimize the encroachment into to the setback and had worked with the neighbors on both sides. Practical difficulty has been proven.

Dehart- YES, for the reasons stated and the fact the existing home encroaches 5’ into the setback currently, and the new home would reduce the encroachment.

Seiber- YES, the new house was an improvement and the current side yard is setback on the north was 5’, and will be improved to 7’.

Shillack- YES.

Spencer- YES, there was a hardship and for all other reasons stated.

- d.** Applicant: John Rossi
 10974 Hillway Drive
 White Lake, MI 48386
- Location: **10974 Hillway Drive**
 White Lake, MI 48386 identified as 12-34-351-009
- Request: The applicant requests to construct an addition on an existing two-story house, requiring a variance from Article 3.1.6.E, R1-D Single Family Residential Side-Yard Setback and Article 7.28.A, Repairs and

Maintenance is required due to the value of improvements and increase in cubic content on a nonconforming structure.

Property Description

The approximately 0.463-acre (20,168.28 square feet) parcel identified as 10974 Hillway Drive is located on Sugden Lake and zoned R1-D (Single Family Residential). The existing house on the property (approximately 1,055 square feet in size) utilizes a private well for potable water and a private septic system for sanitation.

Applicant's Proposal

John Rossi, the applicant, is proposing to construct an addition to the existing house. An existing garage and breezeway were removed to construct the addition.

Planner's Report

The existing house was built in 1920 and is considered nonconforming because it is located 1.63 feet from the east property line. Article 7.23 of the zoning ordinance states nonconforming structures may not be enlarged or altered in a way which increases its nonconformity. The proposed two-story addition (including the 800 square foot attached garage) would be 3,087 square feet in size and at its closest point would encroach 1.24 feet into the required 10-foot side yard setback.

Article 7.28 of the zoning ordinance states maintenance to nonconforming structures cannot exceed fifty percent (50%) of the State Equalized Valuation (SEV) in repairs in any twelve (12) consecutive months. Further, the ordinance does not allow the cubic content of nonconforming structures to be increased. Based on the SEV of the structure (\$141,370), the maximum extent of improvements cannot exceed \$70,685. The value of the proposed work is \$200,000. A variance to exceed to exceed the allowed value of improvements by 283% is requested.

Mr. John Rossi was present. He said the issue was the northwest corner of the addition was within 10' setback. He was unaware of the limit of improvements to nonconforming structures. He couldn't move the addition closer to the road due the septic field. He decided to keep the addition in line with the front of the house. The southwest corner of the addition would be located 15' from the west property line.

Mr. Seiber said the addition was angled toward the west property line, and asked the applicant if the addition could be angled or adjusted just on the corner? Mr. Rossi said to meet the 10' setback he'd lose 1/3 of the addition. Mr. Quagliata said the addition would only have to be moved in the northwest corner so that portion met the setback.

Mr. Powell said if the addition was reconfigured, the setback variance would be reduced on the side in question. Mr. Powell said if the easterly wall of the existing house was moved west, a new exterior wall could be constructed in a location that would eliminate the existing setback problem on the east side. If the setback problems could be eliminated or reduced, the variance regarding the limit of improvements to nonconforming structures wouldn't be needed.

Ms. Spencer noted for the record that 26 owners within 300 feet were notified. No letters were received in favor, 0 letters were received in opposition and 0 letters were returned undeliverable from the US Postal Service.

Ms. Spencer opened the public hearing at 8:42 P.M.

Derek and Jackie Gismondi, 10994 Hillway. They are the neighbors to the west. They had no objections to the project.

Ms. Spencer closed the public hearing at 8:44 P.M.

Mr. Quagliata clarified the ordinance required 20' combined for side yard setbacks. In this case, because the house was 1.63' from the east property line, the ZBA did not have the authority to grant the 10' variance to get the total contribution to 20'. If the house was at least 5' away from the east property line, there would be another variance required to get the total combined side yard setbacks to 20'. The ZBA could grant a variance for the west side.

Ms. Dehart asked since the original structure was log, if the applicant wanted to do anything to the log, would they be able? Mr. Quagliata said if the house needed to be reconstructed, it would need to be located at least 5' from the lot line, and a variance would be needed. Mr. Powell said the eastern wall could be maintained, but major structural changes could not be made.

Mr. Powell said there was a possibility the side property line could be moved to make a 5' setback, which could create another problem if the house to the east didn't meet the setback from the side property line.

Ms. Dehart asked the applicant if the addition would be log sided? Mr. Rossi said he would have liked to reuse what was on the west wall for the addition, but the siding was half logged, so he would use a product for the whole house, including the east wall. He didn't want to leave one wall with the older log siding.

Mr. Quagliata said according to the submitted survey the house to the east was 15' from the common property line. Relocating the property line to the east to make a 5' setback would still be nonconforming, but the setback would be closer to compliance. In the future, the current applicant may sell both properties to different families. The ZBA could take that into consideration to make the setback situation safer for future owners.

Mr. Powell asked staff if the boundary line adjustment would change lot coverage or lot width for the property to the east? Mr. Quagliata said the neighboring lot to the east was just under 57' in width, so it was nonconforming by 23'. If the property line was shifted east a few feet at the street line to make the subject structure closer to compliance with the side yard setback, the neighboring lot would be more nonconforming in width.

Mr. Powell said a 10' corridor between homes was what the Fire Department wanted for safety reasons. Mr. Quagliata said a boundary line adjustment could ensure a minimum 10' setback between structures.

Mr. Rossi said he didn't think the east side yard setback would be an issue. Mr. Quagliata said at almost 300% over the allowed value of improvements, the house could be demolished and rebuilt in conformance with the ordinance. By addressing the situation in this manner, rationale for granting the variance could be because an improvement was being made to the east side yard setback.

Mr. Seiber said the variance being requested at the northwest corner of the addition was small and he was not uncomfortable with the request.

Mr. Rossi said he needed more property on the east side, and his advantage was that he owned the lot on the east side. His concern was if he took property from that lot, such as 3.5', it would reduce the amount of lake frontage. Mr. Powell said the intent was to shift the angle to not reduce the lake frontage, and to make sure the shift provided 5' off the corner of the existing house. Since the neighbor to the west supported the project, he was not concerned about the setback at the northwest corner as long as the setback issue on the east side was taken care of.

Ms. Dehart said the boundary line adjustment could be an excellent way to resolve the east side setback issue.

Mr. Powell added if Mr. Rossi didn't own the property to the east, the discussion would be completely different.

Mr. Powell **MOTIONED** to approve the variances requested by John Rossi from Articles 3.1.6.E and 7.28.A of the Zoning Ordinance for Parcel Number 12-34-351-009, identified as 10974 Hillway Drive, in order to construct an addition that would encroach 1.24 feet into the required side yard setback and exceed the allowed value of improvements to a nonconforming structure by 283%. This approval will have the following conditions:

- The Applicant shall obtain all necessary permits from the White Lake Township Building Department.
 - Prior to issuance of building permits, the applicant shall make application to the Assessing Department for a lot split and combination to change the common lot line between the applicants two parcels identified as 12-34-351-009 and 12-34-351-010 to create at least a 5' setback from the northeast corner of the subject house.

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 3.1.6. E	Side yard setback	10 feet	1.24 feet	8.76 feet
2	Article 7.28. A	Nonconforming structure	50% SEV (\$70,685)	283%	\$129,315 over allowed improvements

Mr. Schillack supported, and the motion carried with a roll call vote (5 votes):

Dehart- YES, the boundary line adjustment would make the nonconforming situation better.

Powell- YES, the configuration of the lot created a hardship in regards to improvements. The reconfiguration of the lot line reduced the nonconformity of the current structure.

Schillack- YES, the boundary line adjustment was an improvement to the area and a good example of foresight and thinking forward on situations.

Seiber- YES, for the reasons stated.

Spencer- YES, the applicant was willing to take care of a possible dangerous situation, the Fire Department would now have adequate access to both properties.

Other Business:

None.

Adjournment: Ms. Dehart **MOTIONED** to adjourn the meeting at 9:25 P.M. Mr. Seiber **supported**. All in favor.

Next Meeting Date: August 27, 2020