

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
October 28, 2021**

CALL TO ORDER

Chairperson Spencer called the meeting to order at 7:01 P.M. She then led the Pledge of Allegiance.

ROLL CALL

Present:

Debby Dehart, Planning Commission Liaison
Kathleen Aseltyne
Michael Powell, Township Board Liaison
Niklaus Schillack
Jo Spencer, Chairperson

Absent:

Dave Walz, Vice Chairperson

Others:

Justin Quagliata, Staff Planner
Hannah Micallef, Recording Secretary

APPROVAL OF AGENDA

MOVED by Member Aseltyne, SUPPORTED by Member Schillack, to approve the agenda as presented. The motion CARRIED with a voice vote (5 yes votes).

APPROVAL OF MINUTES:

- a. Zoning Board of Appeals Regular Meeting of September 23, 2021

Member Powell stated he would like two changes made. On page 15, the 5th paragraph from the bottom was missing "was considered." He also wanted to clarify the last sentence read "Member Powell suggested reducing the size of the two-car garage would reduce the setback from the southern and western property lines."

MOVED by Member Powell, SUPPORTED by Member Schillack to approve the Zoning Board of Appeals Regular Meeting Minutes of September 23rd, 2021 as amended. The motion CARRIED with a voice vote (5 yes votes).

NEW BUSINESS:

- A. Applicant: Don F. Banaszak
 351 Hillwood Drive
 White Lake, MI 48383
- Location: **351 Hillwood Drive**
 White Lake, MI 48383 identified as 12-21-452-039
- Request: The applicant requests to construct an addition, requiring
 variances from Article 3.1.6.E, R1-D Single Family Residential
 Front-Yard Setback and Side-Yard Setback

Chairperson Spencer noted for the record that 23 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.

Staff Planner Quagliata presented his staff report.

Chairperson Spencer asked staff if an accurate calculation of the addition size could be determined based on the applicant's submittal. Staff Planner Quagliata said no, and he used an approximate size based on dimensions labeled on the drawing.

Member Schillack asked staff if the survey had anything else on it that seemed off. Staff Planner Quagliata said he wasn't sure if the dock was there, but the land description was correct.

Member Aseltyne asked staff if the septic was labeled on the survey. Staff Planner Quagliata said no.

Member Dehart asked staff if Hillwood Drive had sewer at the road. Staff Planner Quagliata said no.

Mr. Todd Banaszak, son of the applicant, was present to speak on behalf of the case. He said he was looking to increase the space in the house as he was moving in with his parents. There would be a kitchen, bathroom, living room, and laundry room included with the addition. His parents had lived in the house for 50 years.

Staff Planner Quagliata said the addition could be an accessory dwelling unit, and the size of the addition would have to be reduced in order to grant approval as the size variance was not requested or noticed.

Member Aseltyne asked staff what constituted an accessory dwelling unit. Staff Planner Quagliata said an accessory dwelling unit was similar to a mother-in-law suite or a granny flat.

Member Schillack asked the applicant how the addition would be constructed. Mr. Banaszak said they would be going up with the addition, and the house would keep the same profile.

Member Schillack asked the applicant why they chose to go up with the addition instead of take it to the back of the property. Mr. Banaszak said there was a deck in the back, as well as the septic field.

Member Powell stated if the addition was scaled back from the road and reduced 10.5 feet, a setback variance would not be needed.

Mr. Banaszak said he was only changing the elevation with the addition; the design would remain the same. Member Powell said there was a proposed addition of 10 feet to the elevation on the wall.

Member Schillack said there was room in the back of the lot for an addition. Mr. Banaszak said there was property to the rear of the lot, but there was also a hill.

Don Banaszak, homeowner, was present to speak on the case. He said it would not make sense to go back as there was not a lot of room on the top of the hill. The logical way for him would be to have the addition go up, in addition to HVAC reasons.

Member Dehart asked if the second story could be moved closer to the rear of the house without affecting the existing home. Member Powell said yes.

Chairperson Spencer opened the public hearing at 7:31 P.M.

Joel Morris, 144 Orchardale, Rochester, MI. He said he was a builder in the area and helping the applicants.

Chairperson Spencer closed the public hearing at 7:34 P.M.

Member Schillack said he was struggling to understand the defining line between having two kitchens and an accessory dwelling unit. Staff Planner Quagliata stated there were zoning standards for accessory dwelling units. He added the staff reviewed accessory dwelling units on a case-by-case basis.

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

- A. Practical Difficulty
 - Chairperson Spencer said she did not see a practical difficulty.
 - Member Powell agreed since the applicant had the option of redesigning their plans and not needing a variance.
- B. Unique Situation
 - Chairperson Spencer said since a practical difficulty could not be proven, there was not a unique situation.
- C. Not Self-Created
 - Member Schillack said the addition encroaching on the setback was not necessary due to the size of the lot.
- D. Substantial Justice
 - Member Powell said the lot was beautiful, and there were options and opportunities that came with it.
- E. Minimum Variance Necessary
 - Member Schillack said there was room to build on the lot.

Member Aseltyne MOVED to deny the variances requested by Don F. Banaszak for Parcel Number 12-21-452-039, identified as 351 Hillwood Drive, due to the following reason(s):

- **Failure to fulfill the standards from Article 7, Section 37 of the ClearZoning Ordinance.**

Member Schillack SUPPORTED, and the motion CARRIED with a roll call vote: (5 yes votes): (Aseltyne/yes, Schillack/yes, Powell/yes, Dehart/yes, Spencer/yes)

- B. Applicant: Anthony Dubay
7785 Haley Road White Lake, MI 48383
- Location: **7785 Haley Road**
White Lake, MI 48383 identified as 12-16-401-004
- Request: The applicant requests to construct an addition, requiring variances from Article 3.1.1.F, AG Agricultural Side-Yard Setback, Minimum Lot Area, and Minimum Lot Width. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures is required due to both the value of improvements and the increase in cubic content.

Chairperson Spencer noted for the record that 11 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.

Staff Planner Quagliata gave his staff report.

Member Dehart asked staff how the Agricultural zoning remained when the property was divided. Staff Planner Quagliata said the division occurred decades ago and was not completed through the Township.

Member Schillack asked staff where the well and septic were. Staff Planner Quagliata said the locations were not identified on the survey.

Anthony Dubay, 7785 Haley, applicant, was present to speak on his case. He and his wife wanted an addition off the back of their house for more space. He said his well was 6-7 feet off the front porch, and the septic was 60-70 feet from the well towards the road. He would be keeping the same side setback of the house, and the roofline would remain the same.

Chairperson Spencer opened the public hearing at 8:05 P.M.

Christopher Young, 7755 Haley Road, spoke in favor of the applicant's request.

Chairperson Spencer closed the public hearing at 8:06 P.M.

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

A. Practical Difficulty

- Chairperson Spencer said she saw a practical difficulty in regard to the narrowness of the lot. Member Schillack agreed.
- Member Aselyne said the lot was a zoning oddity that predated the owner purchasing it.

B. Unique Situation

- The ZBA agreed the situation was unique.

C. Not Self-Created

- Member Schillack said the applicant did their best to make the addition as conforming as possible.

D. Substantial Justice

- Member Schillack said the variances would allow the applicant to expand their house on a lot that was oddly shaped.

E. Minimum Variance Necessary

- Member Dehart said the applicant was not asking to create anything wider than the existing structure. Member Schillack agreed.

Member Powell asked staff why the footcandles were measured from 6 feet above grade. Staff Planner Quagliata said the average person experiences outdoor light from eye level, and a footcandle was measured differently from a lumen. Lumens were different from illuminance.

Member Dehart asked staff if a freestanding building was treated differently than a multi-tenant strip mall in regards to wall signage. Staff Planner Quagliata said each tenant would be permitted one wall sign.

Cheryl Ball, 1630 Hilltop Drive and Joe Crawford, 3253 Own Road, Fenton, were present to speak on their case. Ms. Ball said the monument sign would be installed in the location of the existing sign. The new sign was dictated by corporate standards. The monument sign was in a great location for both sides of the road. In regards to the lighting, a new photometric plan was being prepared. The safety of customers at night was important with having the correct light levels. There would be fully recessed fixtures put into the canopy. The light levels were taken from ground level. The parking lot lighting helped the access road and the ingress and egress on the site. Other townships considered the red band around the building an architectural feature, not a sign. The red canopy on the drive through and the exit doors were provided to shield the weather.

Member Powell stated the building was very recognizable as an Arby's. He asked the applicants if the color of the canopies could be changed so the canopies would not count as signage. Mr. Crawford said he could explore that option with corporate.

Member Aselyne asked the applicant what the practical difficulty was. Ms. Ball said moving the monument sign back encroached on parking surface. Mr. Crawford said people driving down M-59 may not know there was an Arby's there. Ms. Ball said the base of the monument sign would have faux masonry around it.

Chairperson Spencer opened the public hearing at 8:57 P.M. Seeing no public comment, she closed the public hearing at 8:57 P.M.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance for Variances 1, 2, and 3:

A. Practical Difficulty

In regards to Variance 1:

- Member Schillack said he saw a practical difficulty in regards to topography.
- Member Powell said he saw a practical difficulty in regards to traffic and would be an issue in regards to safety. Chairperson Spencer agreed.

In regards to Variances 2&3:

- Member Powell said the size of the sign was the proper size to be seen down M-59 while driving.

B. Unique Situation

In regards to Variances 2&3:

- Member Dehart said the sign could not be moved back. Member Powell and Member Schillack agreed.

C. Not Self-Created

D. Substantial Justice

In regards to Variance 1:

- Member Schillack said the ZBA would be granting rights similar to what other businesses had.

In regards to Variances 2&3:

- Member Schillack said other nearby businesses had noticeable signage.

E. Minimum Variance Necessary

In regards to Variance 1:

- Member Powell said the sign would be set far enough off the road not to create a sight distance issue.

In regards to Variances 2&3:

- Member Powell said this applied in regard to Variance 3. In regard to Variance 2, he said the ZBA would be granting a variance less than the ordinance requirements. Member Powell said the 1-inch variance was the minimum necessary to obtain the 7-foot maximum height.

Member Powell MOVED to approve the variances requested by Chew Land Management from Article 5.9.J.i.a, Article 5.9.J.i.b, of the Zoning Ordinance for parcel number 12-22-301-007, identified as 10855 Highland Road, in order to install a 49.14 square foot monument sign that would be located 12'-4" from the road right-of-way line and to allow for a sign base height of 23 inches, resulting in a variance of 1 inch, and a variance of 24.48 square feet resulting in a 49.14 square foot sign size. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **No additional freestanding signage shall be permitted on the site.**
- **Any future modification to freestanding signage on the site, except for eliminating signage, shall require approval of the Zoning Board of Appeals.**
- **The foundation of the sign be verified by a registered land surveyor prior to installing the sign cabinet.**

Member Schillack SUPPORTED, and the motion CARRIED with a roll call vote: (5 yes votes) (Powell/yes Schillack/yes, Dehart/yes, Aseltyne/yes, Spencer/yes)

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance again for Variances 11, 12, and 13:

- A. Practical Difficulty
 - Member Powell said the ordinance was written for an architectural issue, not a safety issue.
- B. Unique Situation
 - Member Powell said the lighting was going to be only over three key safety locations.
 - Member Schillack said the business brought a high volume of consumers, and fast-food restaurants could attract nefarious activity at night.
- C. Not Self-Created
 - Member Powell said the problem was safety created.
- D. Substantial Justice
 - Member Schillack said similar businesses in the area had outdoor lighting.
 - Member Powell said the lit canopies would direct customers to entrances at night.
- E. Minimum Variance Necessary
 - Member Dehart said the lit canopies would only be at three locations on the building.

Member Aseltyne MOVED to approve the variances requested by Chew Land Management from Article 5.1.8.G of the Zoning Ordinance for parcel number 12-22-301-007, identified as 10855 Highland Road, in order allow each of the three proposed luminaries to exceed the allowed footcandle limit by 10 footcandles. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **No additional outdoor lighting shall be permitted on the building or site.**
- **Any future modification to outdoor lighting on the building or site, except for eliminating outdoor lighting, shall require approval of the Zoning Board of Appeals.**
- **Prior to installing the luminaries, a lighting (photometric) plan shall be submitted to verify the footcandles are 15 at 6 feet above grade.**

Member Schillack SUPPORTED, and the motion CARRIED with a roll call vote: (5 yes votes) (Aseltyne/yes, Schillack/yes, Dehart/yes, Spencer/yes, Powell/yes).

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance again for Variance 6:

- A. Practical Difficulty
 - Member Powell said there was no practical difficulty. Chairperson Spencer and Member Schillack agreed.
- B. Unique Situation
 - Member Aseltyne said there was no practical difficulty so there was not a unique situation.
- C. Not Self-Created
 - Member Powell said the issue was self-created.
- D. Substantial Justice
- E. Minimum Variance Necessary

Member Schillack MOVED to deny the variance requested by Chew Land Management from Article 5.9.j.ii.b, for parcel 12-22-301-007, identified as 10855 Highland Road, for 1 wall sign on the rear (south) facade due to the following reason(s):

- **Failure to meet the standards from Article 7, Section 37 of the ClearZoning Ordinance.**

Member Aseltyne SUPPORTED, and the motion CARRIED with a roll call vote: (4 yes votes) (Schillack/yes, Aseltyne/yes, Spencer/yes, Dehart/no, Powell/yes).

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance again for Variances 5, 8, and 10:

- A. Practical Difficulty
 - Chairperson Spencer did not see a practical difficulty. Member Powell, Member Aseltyne, and Member Schillack agreed.
- B. Unique Situation
 - Member Spencer said there was no practical difficulty, so there was no unique situation.
- C. Not Self-Created
 - Member Dehart said the applicant's problem was self-created.
- D. Substantial Justice
 - Member Powell said there were no other stores on that site that wrapped their building in a corporate designed stripe.
- E. Minimum Variance Necessary
 - Chairperson Spencer said there was no practical difficulty, so this standard was not met.

Member Schillack MOVED to deny the variances requested by Chew Land Management from Article 5.9.j.ii.b of the Zoning Ordinance for parcel number 12-22-301-007, identified as 10855 Highland Road, for the 73.42 square foot sign stripe on the north facade, 53.6 square foot sign stripe on the east facade, and the 56 square foot sign stripe on the west facade, due to the following reason(s):

- **Failure to meet the standards from Article 7, Section 37 of the ClearZoning Ordinance.**

Member Powell SUPPORTED, and the motion CARRIED with a roll call vote: (5 yes votes) (Schillack/yes, Powell/yes, Spencer/yes, Dehart/yes, Aseltyne/yes).

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance again for Variance 9:

- A. Practical Difficulty
 - Member Dehart said there was a safety issue as the sign was not seen from the west until one drove past it.
 - Chairperson Spencer did not consider the access drive to the west as a road.
- B. Unique Situation
 - Member Powell said the safety for drivers down M-59 was a factor.
- C. Not Self-Created
 - Member Powell said the applicant did not design any of the driveways leading into the site.
- D. Substantial Justice
 - Member Powell said highlighting the main entrance into the building was substantial justice.
- E. Minimum Variance Necessary
 - Member Schillack said by denying the stripe, the minimum variance would be granted.

Member Schillack MOVED to approve the variance requested by Chew Land Management from Article 5.9.j.ii.b for parcel number 12-22-301-007, identified as 10855 Highland Road, to allow a 26 square foot “Arby’s” sign on the west facade of the building. The approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **No additional signage on the west facade of the building shall be permitted.**
- **Any future modification to signage on the west facade of the building, except for eliminating signage, shall require approval of the Zoning Board of Appeals.**

**Member Aseltyne SUPPORTED, and the motion CARRIED with a roll call vote (5 yes votes):
(Schillack/yes, Aseltyne/yes, Spencer/yes, Dehart/yes, Powell/yes)**

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance again for Variances 4&7:

- A. Practical Difficulty
 - Member Dehart said the practical difficulty was for those traveling westbound down M-59 to be able to see the building.
 - Member Powell said every parking space to the east would see the sign on the east side, but a sign on the north facade would not be visible.
- B. Unique Situation
 - Member Powell said the other buildings in the vicinity had signs on them, and Arby's would be missing one if they did not have one on the east facade.
- C. Not Self-Created
 - Member Dehart said the applicant did not put the building there.
- D. Substantial Justice
 - Member Powell said other stores were identifiable from their parking lots. Staff Planner Quagliata stated Village Lakes was governed by a Planned Business development agreement that allowed one building to contain signage on the rear facade.
- E. Minimum Variance Necessary

Member Dehart MOVED to approve the variance requested by Chew Land Management from Article 5.9.j.ii.b for parcel number 12-22-301-007, identified as 10855 Highland Road, to allow a 25.77 square foot Arby's hat sign on the east facade of the building. The approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **No additional signage on the east facade of the building shall be permitted.**
- **Any future modification to signage on the east facade of the building, except for eliminating signage, shall require approval of the Zoning Board of Appeals.**
- **No wall signage shall be permitted on the north facade of the building.**

**Member Aseltyne SUPPORTED, and the motion CARRIED with a roll call vote (5 yes votes):
(Dehart/yes, Aseltyne/yes, Schillack/yes, Spencer/yes, Powell/yes)**

Member Schillack MOVED to deny the variance requested by Chew Land Management from Article 5.9.j.ii.a for the additional wall sign area on the building for parcel number 12-22-301-007, identified as 10855 Highland Road, due to failure to meet the standards from Article 7, Section 37 of the ClearZoning Ordinance.

**Member Powell SUPPORTED and the motion CARRIED with a roll call vote: (5 yes votes).
(Schillack/yes, Powell/yes, Dehart/yes, Spencer/yes, Aseityne/yes)**

OTHER BUSINESS

- a) 2022 Meeting Schedule

Member Schillack MOVED to approve the 2022 Zoning Board of Appeals meeting schedule as presented. Member Aseityne SUPPORTED and the motion CARRIED with a voice vote (5 yes votes).

ADJOURNMENT

MOVED by Member Dehart, SUPPORTED by Member Schillack to adjourn the meeting at 11:05 P.M. The motion CARRIED with a voice vote (5 yes votes).

NEXT MEETING DATE: December 9, 2021 Regular Meeting