

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
DECEMBER 9, 2021**

CALL TO ORDER

Chairperson Spencer called the meeting to order at 7:00 P.M. She then led the Pledge of Allegiance.

ROLL CALL

Present:

Clif Seiber
Debby Dehart, Planning Commission Liaison
Kathleen Aseltyne
Michael Powell, Township Board Liaison
Jo Spencer, Chairperson

Absent:

Niklaus Schillack

Others:

Justin Quagliata, Staff Planner
Hannah Micallef, Recording Secretary

APPROVAL OF AGENDA

Staff Planner Quagliata stated Agenda Item B should have second story removed from the request as the garage was not planned to be constructed with a second story.

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

APPROVAL OF MINUTES:

- a. Zoning Board of Appeals Regular Meeting of October 28, 2021

Staff Planner Quagliata wanted to make a change on page 8 regarding the conditions of approval on the monument sign. The word "setback" should be added after the word "foundation."

**MOVED by Member Powell, SUPPORTED by Member Seiber to approve the Zoning Board of Appeals Regular Meeting Minutes of October 28th, 2021 as amended.
The motion CARRIED with a voice vote (5 yes votes).**

NEW BUSINESS:

- A. Applicant: Nick Trifon/ Signs by Crannie
 4145 Market Place
 Flint, MI 48507
- Location: **6707 Highland Road**
 White Lake, MI 48383 identified as 12-20-276-014
- Request: The applicant requests to enlarge and alter a nonconforming structure (sign) within the setback from the road right-of-way and exceeding the allowed size, requiring a variance from Article 7.23.A, Nonconforming Structures.

Chairperson Spencer noted for the record 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 presented his staff report.

Member Powell asked staff if the variances were for the existing sign or for the modifications to the existing sign. Staff Planner Quagliata said the proposed alteration/enlargement required a variance.

Member Dehart asked staff if the applicant could construct a monument sign in the road right-of-way if the existing sign was demolished. Staff Planner Quagliata said the applicant would need approval from the Michigan Department of Transportation (MDOT) and a variance from the ZBA to construct a sign in the Highland Road right-of-way. He added the applicant would need a variance to put another sign in the same location, since the location was not setback far enough from the road right-of-way.

Nick Trifon was present to speak on behalf of his case. He said visibility and safety were the main concerns with being able to modify the existing sign. The restaurant business had been impacted by the COVID pandemic, and an electronic sign would be able to show altered business hours easily. The owners wanted to upgrade to the electronic sign to convey the restaurant was hiring as well. The owners would consider moving the illegal truck, and keeping the electronic portion of the sign the same size as the current nonelectronic changeable sign if the variances were approved.

Member Powell stated the existing sign was almost a landmark type of sign. He added he did not need a sign to know where the restaurant was. He said a practical difficulty was not presented, and the ZBA could not taken into account past decisions or existing signs.

Member Aseltyne said the current sign was classic, but there was not a demonstrated practical difficulty.

Member Dehart asked staff if the electronic reader board was replaced to be the same size as the current changeable sign, would the applicant still need a variance. Staff Planner Quagliata stated it would be considered an alteration to a nonconforming structure and still require a variance.

Member Dehart stated she could read the current sign driving down Highland Road (M-59).

Member Seiber stated there were many issues with the existing sign being nonconforming, and the current proposal did not improve the nonconformities. There would be more to consider if the applicant was working to bring the existing sign into compliance.

Chairperson Spencer opened the public hearing at 7:33 P.M. Seeing no public comment, she closed the public hearing at 7:33 P.M.

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

- A. Practical Difficulty
 - Chairperson Spencer did not see a practical difficulty.
 - Member Powell said there was not a practical difficulty in regards to the usability of the site.
- B. Unique Situation
- C. Not Self-Created
 - Member Dehart said the applicant's problem was self-created as the request was to alter a nonconforming structure.
- D. Substantial Justice
 - Member Powell said the sign did not correlate with the usability of the site.
- E. Minimum Variance Necessary
 - There was no practical difficulty established.

Member Aseltyne MOVED to deny the variance requested by Nick Trifon / Signs by Crannie for Parcel Number 12-20-276-014, identified as 6707 Highland Road, due to the following reason(s): Failure to meet the standards from Article 7, Section 37 of the ClearZoning Ordinance.

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

- B. Applicant: Leo Huantes
68 W. Fairmont
Pontiac, MI 48340
- Location: **4925 Ormond Road**
White Lake, MI 48383 identified as 12-07-130-059
- Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct a garage, requiring variances from Article 7.23.A, Nonconforming Structures and Article 3.1.6.E, R1-D Single Family Residential Minimum Lot Area. 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 32 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.

Member Seiber asked staff if there was a second floor proposed over the garage addition. Staff Planner Quagliata stated the current garage would be converted to living space and the addition would be the new garage without a second story.

Martin Gojcay, 9312 Oakmond, Clarkston, Michigan, property owner, was present to speak on behalf of the case. He said the existing addition over the garage made the house plain looking. When he spoke to his builder, he was told to put a garage in the front to give the house the desired curb appeal. The septic field was located in the rear of the lot, and the well was in the front yard.

Member Aseltyne asked Mr. Gojcay if the house was currently vacant. Mr. Gojcay confirmed.

Member Powell stated the houses around the subject site were similar as they were not located close to the road. He there was not a practical difficulty demonstrated.

Chairperson Spencer opened the public hearing at 7:56 P.M. Seeing no public comment, she closed the public hearing at 7:56 P.M.

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

- A. Practical Difficulty
 - Chairperson Spencer said there were other alternatives.
- B. Unique Situation
 - Member Powell said the house was similar to the others around it.
- C. Not Self-Created
 - There was a self-created problem as there were alternatives.
- D. Substantial Justice
- E. Minimum Variance Necessary

Member Seiber stated the building envelope on the lot had some space for an addition, or taking an addition up could be an option. He added the houses around the subject site were setback in accordance with the ordinance.

Member Dehart MOVED to deny the variances requested by Leo Huantes for Parcel Number 12- 07-130-059, identified as 4925 Ormond Road, 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):
(Dehart/yes, Powell/yes, Seiber/yes, Aseltyne/yes, Spencer/yes)**

- C. Applicant: NCM Ventures LLC – John Rozanski
 2704 Wabum Road
 White Lake, MI 48386
- Location: **8565 Pontiac Lake Road**
 White Lake, MI 48386 identified as 12-13-328-003
- Request: The applicant requests an extension of the approval period for variances granted on June 24, 2021, requiring a variance from Article 7.39, Approval Periods.

Chairperson Spencer noted for the record 13 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.

Member Powell asked staff how long of an extension would be granted. Staff Planner Quagliata stated once the building permit was obtained, the applicant would be working within the time limit of the permit. The variance requested would extend the applicant's time to obtain the permit by six months.

John Rozanski, 2740 Wabum, White Lake, was present to speak on his case. He said he was moving forward on his project, and he had tenants at the existing apartments until April 2022. Soil borings were done at the site. He intended to demolish the existing buildings and pull permits after the current tenants left.

Member Powell asked the applicant if he was at the point to submit plans for review by the Building Department. Mr. Rozanski said he was still looking to get construction estimates and plans prepared, and he had not secured a contractor yet.

Member Powell asked staff if a demolition permit would extend the applicant's time to submit building permits. Staff Planner Quagliata stated the zoning ordinance specifically required "building permit."

Chairperson Spencer opened the public hearing at 8:12 P.M. Seeing no public comment, she closed the public hearing at 8:12 P.M.

Member Seiber MOVED to approve the variance requested by John Rozanski from Article 7.39 of the Zoning Ordinance for Parcel Number 12-13-328-003, identified as 8565 Pontiac Lake Road, in order to extend the approval period for variances granted on June 24, 2021 by six months, until June 24, 2022. This approval will have the following conditions:

- **All conditions of previous approvals shall remain in effect.**

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

- D. Applicant: 4 Corners Square LLC
29580 Northwestern Hwy STE 100
Southfield, MI 48034
- Location: **1449 Union Lake Road**
White Lake, MI 48386 identified as 12-36-476-032
- Request: The applicant requests to construct a building, requiring variances from Article 3.1.13.D, Neighborhood Mixed Use Build-to-Line coverage and Minimum building height. A variance from Article 5.11.P.i, Off-Street Loading Requirements is required for the dimensions of the off-street loading space. A variance from Article 5.9.J.ii.b is required to exceed the allowed number of wall signs.

Chairperson Spencer noted for the record 146 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.

Member Aselyne asked staff why the previous variances were granted. Staff Planner Quagliata stated part of the issue at the time was contamination on the property. The Township created a Commercial Rehabilitation District to address the site issues. Member Aselyne asked staff if there were remediation compliance documents for the site. Staff Planner Quagliata noted the State had such documentation.

Amar AlKhafaji was present to speak on behalf of the case. He said there was a vision for the subject site years ago when it was first being developed. There was the idea to create urban walkability in a suburban area. In regards to this project, there was originally hopes for a sit-down restaurant, but due to the COVID pandemic, he was unable to find a full-service restaurant tenant. The two proposed fast-food tenants were excited to come to the Township. He wanted to create a physical buffer for residents on the lake, which was why the building was proposed to be setback. To keep the building cohesive with the other shopping center, it would be one-story and use the same materials in construction.

Detroit Wing Company would be closest to Tim Horton's, and Beyond Juice would be closest to Union Lake Road. Detroit Wing Company would like a small sign on the east side of the building to capture customers. The "Welcome to White Lake" sign would be improved, and Mr. AlKhafaji was proposing to build a nicer sign with 4 Corners verbiage included.

The tenants would not receive deliveries from full semi-trucks in the loading area. The depth needed a variance, but the width of the area was wider than required.

Member Powell stated he was hoping to see a sit-down restaurant on the site. Mr. AlKhafaji said there would be indoor seating at both restaurants.

Member Powell asked Mr. AlKhafaji why the loading zone could not be extended west. Mr. AlKhafaji said there was a light pole, as well as landscaping.

Chairperson Spencer opened the public hearing at 8:45 P.M. Seeing no public comment, she closed the public hearing at 8:45 P.M.

Member Seiber asked staff if the Ordinance Officer would ticket a truck delivery at the site if a truck was sticking out of the loading area. Staff Planner Quagliata said it would be more of a Fire Department issue with blocking access.

Member Dehart said the Township Engineer discussed the depth of the loading area at the December 2, 2021 Planning Commission meeting.

Member Powell asked staff about the patio. Staff Planner Quagliata asked Mr. AlKhafaji about the patio surface. Mr. AlKhafaji said it would be concrete.

Member Powell asked Mr. AlKhafaji what signs would be on the south side of the building versus the proposed sign on the east side. Mr. AlKhafaji said the south side would have the three tenant signs, and the east side would have one Detroit Wing Company sign. The tenant was adamant about the sign on the east side.

Member Seiber said the tenants in the adjacent shopping center did not have corner signs, and because of the way the building was situated, the east side sign would not be visible from travelers on the road. He added the floor plan was inconsistent with the elevation as there was a door shown on the east side elevation, but not on the floor plan. Mr. AlKhafaji said a door was not proposed on the east side of the building and the elevation was incorrect.

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

In regards to variance #1, regarding build- to-line coverage:

- A. Practical Difficulty
 - Chairperson Spencer said a similar variance for this site was granted before.
 - Member Powell said he liked the building being setback instead of up to the property line.
- B. Unique Situation
- C. Not Self-Created
 - Chairperson Spencer said the problem was not self-created.
- D. Substantial Justice
- E. Minimum Variance Necessary

In regards to variance #2, minimum building height:

- A. Practical Difficulty
 - Chairperson Spencer said none of the other commercial buildings on the site were two stories, so it would be in line with the existing commercial buildings.
- B. Unique Situation
- C. Not Self-Created
- D. Substantial Justice
- E. Minimum Variance Necessary

In regards to variance #3, off-street loading requirements:

- A. Practical Difficulty
 - Member Powell said he did not want a truck to stick out of the loading space.
 - Member Seiber said a 10–15-foot variance would allow a box truck and trash hauler.
- B. Unique Situation
 - Chairperson Spencer said she could see a practical difficulty if the length of the loading space was extended.
- C. Not Self-Created
- D. Substantial Justice
- E. Minimum Variance Necessary
 - By increasing the length of the loading space, adverse impact would be reduced.

In regards to variance #4, maximum number of signs.

- A. Practical Difficulty
 - Chairperson Spencer did not see a practical difficulty.
- B. Unique Situation
 - Member Powell said it was a corner lot, so a sign on the west facade was permitted. He added a sign on the east elevation was not needed.
- C. Not Self-Created
 - Chairperson Spencer said this problem was self-created by the applicant.
- D. Substantial Justice
- E. Minimum Variance Necessary
 - Chairperson Spencer said by eliminating the wall sign on the east elevation, the minimum variances necessary would be granted.

Member Powell MOVED to approve the variances requested by 4 Corners Square LLC from Article 3.1.13.D and Article 5.11.P.i of the Zoning Ordinance for Parcel Number 12-36-476-032, identified as 1449 Union Lake Road, in order to allow construction of a one-story, 22’–11” tall building with a zero (0) percent build-to-line, and a 10-foot variance from the required loading space length. This approval will have the following conditions:

- **The exterior elevations be revised to remove the east side door.**
- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **The Applicant shall receive preliminary site plan approval from the Township Board.**
- **For the purpose of administrating the sign ordinance, signs on the subject property shall be treated as those in the RB (Restricted Business) zoning district and meet the requirements of Article 5, Section 9.J of the zoning ordinance.**
- **No additional signage shall be permitted on the building or site, except for the Township’s “Welcome to White Lake” sign. The “Welcome to White Lake” sign is to be designed to meet the requirements of the ClearZoning Ordinance.**
- **Any future modification to signage on the building or site, except for eliminating signage, shall require approval of the Zoning Board of Appeals.**

- **The outdoor seating area (patio) shall at a minimum be stamped, stained, and sealed concrete.**
- **The site plan shall be revised to clearly show the outdoor seating area (patio) as accessible from the parking lot.**
- **There shall be a 14-foot minimum ceiling height inside the building.**

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

Member Powell MOVED to deny the variance requested by 4 Corners Square LLC from Article 5.9.J.ii.b the Zoning Ordinance for Parcel Number 12-36-476-032, identified as 1449 Union Lake Road, for one wall side on the east elevation of the building.

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

The Zoning Board of Appeals took a recess at 9:21 P.M. The ZBA returned from recess at 9:23 P.M.

OTHER BUSINESS

A. Zoning Ordinance Discussion

Member Powell said he brought up amending the zoning ordinance at the Township Board, and it was suggested the discussion begin at the ZBA before taking it up with the Planning Commission. He added Article 7.28.A, Repairs and Maintenance to Nonconforming Structures, was an ordinance section he would like to discuss.

Chairperson Spencer said it was rare for the ZBA to deny a case solely based on Article 7.28.A of the ordinance.

Member Powell mentioned the sign ordinance and would like to review the text and see if there was a more modern way to interpret signs. Member Dehart agreed.

Staff Planner Quagliata said there were other ordinance sections that should be revisited, and the ZBA could take its time and review them individually. He said he would prepare a summary of the cases over the past two-five years, and go from there.

ADJOURNMENT

**MOVED by Member Aseityne, SUPPORTED by Member Seiber to adjourn the meeting at 10:07 P.M.
The motion CARRIED with a voice vote (5 yes votes).**

NEXT MEETING DATE: January 27, 2022 Regular Meeting