

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS SPECIAL MEETING
MAY 25, 2023**

CALL TO ORDER

Chairperson Spencer called the meeting to order at 5:00 P.M. She then led the Pledge of Allegiance.

ROLL CALL

PRESENT:

Jo Spencer, Chairperson
Debby Dehart, Planning Commission Liaison
Clif Seiber
Niklaus Schillack, Vice Chairperson
Mike Powell, Township Board Liaison

OTHERS:

Justin Quagliata, Staff Planner
Sean O'Neil, Community Development Director
Hannah Micallef, Recording Secretary

15+ members of the public present.

APPROVAL OF AGENDA

MOTION by Member Schillack, seconded by Member Powell to approve the agenda as presented. The motion CARRIED with a voice vote: (5 yes votes).

APPROVAL OF MINUTES

A. April 27, 2023

MOTION by Member Seiber, seconded by Member Schillack to approve the minutes of April 27, 2023 as presented. The motion CARRIED with a voice vote: (5 yes votes).

CALL TO THE PUBLIC

Chairperson Spencer stated the White Lake Presbyterian Church was holding a fun fair on June 3rd.

7. NEW BUSINESS

- A. Applicant: Mike Beals
8468 Cascade Street
Commerce, MI 48382
Location: **8468 Cascade Street**
Commerce, MI 48382 identified as 12-36-453-022
Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct an addition, requiring variances from Article 7.23.A, Nonconforming Structures and Article 3.1.6.E, R1-D Single Family Residential Minimum Lot Width. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures is also required due to both the value of improvements and the increase in cubic content.

Chairperson Spencer noted for the record 34 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 a brief report.

Member Seiber stated the garage was noncompliant, but the applicant was not looking to expand the garage. Staff Planner Quagliata said the proposed expansion of the house to connect the house to the garage necessitated a variance for the garage side yard setback. A variance regarding the setback between the house and garage was not published as the request involved connecting the buildings.

Member Powell asked staff what would happen if no action was taken on the garage. Staff Planner Quagliata said the ZBA could not legally approve a side yard setback of less than five feet.

Member Powell asked staff if the architectural plans were inconsistent with the survey. Staff Planner Qualified confirmed and said the architectural plans needed to be consistent with the site plan.

Robert Freels, 357 Eauclair, was the applicant's builder and present to speak on behalf of the applicant. He said the homeowner agreed with the variance conditions listed in the staff planner's report.

Member Seiber asked Mr. Freels if the addition between the house and the garage could be carried straight south to the garage instead of jogged west. Mr. Freels said he would prefer not to, as the applicant wanted the space. He was willing to consider it, but wanted to keep the plans as drawn.

Member Powell stated he would prefer to see the garage wall moved west. Mr. Freels said if the garage was moved more than one foot, there would be costs incurred in regards to the foundation.

Chairperson Spencer opened the public hearing at 5:19 P.M. Seeing no public comment, she closed the public hearing at 5:20 P.M.

Member Schillack stated as the Chairperson explained at the beginning of the meeting, there were five standards established by law through which we reviewed each case. Since applicants asked this Board to allow them to legally break the law, it was essential all five standards were met when granting permission. We named the standards, explained them in the process, during individual case deliberation. This process of going through the standards during each case matched transparency with diligence in helping make the best determination possible for all residents of our Township, including the applicant.

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

A. Practical Difficulty

- Member Seiber said the lot width was undersized for the current standards in the R1-D zoning district. Members Powell and Dehart agreed.

B. Unique Situation

- Member Powell said surrounding houses in the neighborhood did not meet the current requirements of the zoning ordinance.
- Member Schillack said the existing house next to the lot was closer than the proposed house was to be.

C. Not Self-Created

- Chairperson Spencer did not see a self-created problem.

D. Substantial Justice

- Member Dehart said based on the surrounding houses in the area, the proposed house would not be bestowed any special rights.
- Member Powell said by moving the garage wall, there would be an improvement for health, safety and welfare.

E. Minimum Variance Necessary

- Chairperson Spencer said the minimum necessary variances would be granted.
- Member Schillack said a nonconformity would be reduced by moving the garage wall.

Member Seiber MOVED to approve the variances requested by Mike Beals from Articles 7.23.A and 7.28.A of the Zoning Ordinance for Parcel Number 12-36-453-022, identified as 8468 Cascade Street, in order to construct an addition. Variances from Article 7.23.A are granted to allow the addition to encroach 1.5 feet into the required west side yard setback and exceed the allowed lot coverage by 2%. A variance from Article 7.28.A is granted to exceed the allowed value of improvements to a nonconforming structure by 172%. A 20-foot variance from the required lot width is also granted from Article 3.1.6.E. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Division.**
- **A foundation certificate shall be required prior to the backfill inspection by the Building Department.**
- **An as-built survey shall be required to verify the approved setbacks and lot coverage.**
- **The west side wall of the garage shall be removed and reconstructed to establish a five-foot side yard setback, which shall be measured from the roof overhang of the garage.**
- **In no event shall the projection of any roof overhang be closer than five feet to the west side lot line.**
- **A revised building permit application shall be submitted and the building permit fee shall be based on a value of improvement of \$130,548.60.**
- **The architectural plans shall be revised to be consistent with the site plan prepared by the surveyor.**

Member Powell SUPPORTED and said an affirmative vote would require a change in architectural plans since the west side yard setback would be approved at 1.5 feet. The request for the west side yard setback was reduced to the minimum necessary.

**The motion carried with a roll call vote (5 yes votes):
(Seiber/yes, Powell/yes, Dehart/yes, Spencer/yes, Schillack/yes).**

- B. Applicant: Wade Paris
9377 Gale Road
White Lake, MI 48386
Location: **9604 Buckingham Road**
White Lake, MI 48386 identified as 12-14-201-015
Request: The applicant requests to construct a single-family house, requiring variances from Article 3.1.6.E, R1-D Single Family Residential Front-Yard Setback and Maximum Lot Coverage.

Chairperson Spencer noted for the record 19 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 a brief report.

Wade Paris, 9377 Gale, applicant, was present to speak on his case. He said the changes he made to the plans last time greatly improved the setbacks, and he was not looking to change those plans.

Chairperson Spencer opened the public hearing at 6:36 P.M. Seeing no public comment, she closed the public hearing at 6:36 P.M.

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

- A. Practical Difficulty
 - Based on the comments from the July 28, 2022 ZBA hearing and discussion.
- B. Unique Situation
 - Based on the comments from the July 28, 2022 ZBA hearing and discussion.
- C. Not Self-Created
 - Based on the comments from the July 28, 2022 ZBA hearing and discussion.
- D. Substantial Justice
 - Based on the comments from the July 28, 2022 ZBA hearing and discussion.
- E. Minimum Variance Necessary
 - Based on the comments from the July 28, 2022 ZBA hearing and discussion.

Member Dehart MOVED approve the variances requested by Wade Paris from Article 3.1.6.E of the Zoning Ordinance for Parcel Number 12-14-201-015, identified as 9604 Buckingham Road, in order to construct a new house that would encroach 7.5 feet into the required front yard setback and exceed the allowed lot coverage by 1.5%. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Department.**
- **No mechanical units, including HVAC system or generator, shall be placed closer than five (5) feet to any side yard lot line.**

- **A foundation certificate shall be required prior to the backfill inspection by the Building Department.**
- **An as-built survey shall be required to verify the approved setbacks and lot coverage.**

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

- C. Applicant: Sydney Irving
4965 Lake Grove Drive
White Lake, MI 48383
Location: **4965 Lake Grove Drive**
White Lake, MI 48383 identified as 12-07-126-001
Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct an addition, requiring a variance from Article 7.23.A, Nonconforming Structures. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures is also required due to both the value of improvements and the increase in cubic content.

Chairperson Spencer noted for the record 29 owners within 300 feet were notified. 1 letter was 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 a brief report.

Shaun Irving, 4965 Lake Grove Drive, was present to speak on his case. He said the configuration of the lot and the location of the septic field made the proposed addition plan ideal.

Member Seiber stated there was room to expand on the northerly side of the house. He asked the applicant if it was possible to reduce the back of the house by 2.5 feet. Mr. Irving said he would like to keep the size of the bedroom as proposed, but could reduce the bedroom size if needed.

Member Powell asked the applicant the reason the expansion was not taken to the north. Mr. Irving said he wanted the proposed addition to house to maintain the same lines as the existing house.

Chairperson Spencer opened the public hearing at 5:46 P.M. She read one letter in favor of the applicant's request into the record. Seeing no more comments, she closed the public hearing at 5:47 P.M.

Members Schillack and Dehart thanked the applicant for their survey submittal having all of the requirements per the ZBA application.

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

- A. Practical Difficulty
 - Member Dehart said the practical difficulty was the house was nonconforming. Member Schillack agreed.
 - Member Schillack added he saw a building envelope that could lessen the variances required.
- B. Unique Situation
 - Member Powell said the existing house was what it was, but he took issue granting the rear yard setback variance.
- C. Not Self-Created
 - Member Seiber said the applicant did not build the house; therefore, there was not a self-created problem.
- D. Substantial Justice
 - Member Dehart said the house was built where it was built, and there would not be adverse impacts to neighbors in the vicinity.
- E. Minimum Variance Necessary
 - Chairperson Spencer said she thought the minimum variance was requested.
 - Member Powell said architecturally or structurally, there was no reason to extend the structure to the north.

Member Seiber MOVED to approve the variances requested by Sydney Irving from Article 7.23.A and Article 7.28.A of the Zoning Ordinance for Parcel Number 12-07-126-001, identified as 4965 Lake Grove Drive, in order to construct a first-story addition. A variance from Article 7.23.A is granted to allow the addition to encroach 2.71 feet into the required setback from the south side lot line. A variance from Article 7.28.A is granted to exceed the allowed value of improvements to a nonconforming structure by 245%. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Division.**
- **A foundation certificate shall be required prior to the backfill inspection by the Building Division.**
- **An as-built survey shall be required to verify the approved setbacks.**
- **The architectural plans shall be revised to be consistent with the site plan prepared by the surveyor.**
- **The building permit fee shall be based on a value of improvement of \$94,798.37.**
- **In no event shall the projection of any roof overhang be closer than five feet to any side yard property line.**
- **No new HVAC or generator units be placed along within the south side yard setback.**

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

- D. Applicant: Brian Nelson
513 N. Ponchartrain Boulevard
White Lake, MI 48386
Location: **513 N. Ponchartrain Boulevard**
White Lake, MI 48386 identified as 12-27-405-025
Request: The applicant requests to construct an accessory building, requiring a variance from Article 3.1.5.E, R1-C Single Family Residential Front Yard Setback.

Chairperson Spencer noted for the record 19 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 a brief report.

Brian Nelson, 513 N. Ponchartrain, was present to speak on his case. He said he could not afford to connect the new garage to his house at this time. The layout was designed to give connection from the new garage to the house.

Member Seiber asked the applicant where the septic field was located. Mr. Nelson said it was on the left side of the house.

Member Powell asked the applicant if the garage was pushed back, why the house could not connect to it. Mr. Nelson said if the garage was pushed back too far, he would have to reduce living space within the house. He wanted to keep the current footprint of the house as he was planning on a future addition.

Member Seiber stated if the applicant got approval for the garage, but did not receive it for the future addition, there could be a risk. Mr. Nelson said he tried to keep the layout as proposed to maintain lake views for his neighbors.

Chairperson Spencer opened the public hearing at 6:08 P.M. Seeing no public comment, she closed the public hearing at 6:08 P.M.

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

A. Practical Difficulty

- Member Dehart said the garage could be shortened, and was not sure if she saw a practical difficulty.
- Member Powell said he did not see a practical difficulty due to the large size of the lot and alternatives available.

B. Unique Situation

- Chairperson Spencer said there was no practical difficulty, so there was not a unique situation.
- Member Powell said the lot was large enough for other alternatives.

- C. Not Self-Created
 - Member Seiber said there was a self-created problem. The issue with the connection could be solved with architectural design.
- D. Substantial Justice
 - Member Schillack said in contrast, the applicant had a bigger building envelope than the surrounding properties.
- E. Minimum Variance Necessary
 - Chairperson Spencer said she did not see a minimum variance necessary.

Member Powell MOVED to deny the variance requested by Brian Nelson for Parcel Number 12-27-405-025, identified as 513 N. Ponchartrain Boulevard, due to the following reason(s)

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

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

- E. Applicant: Kieft Engineering – Casey Leach, P.E.
5852 S. Main Street, Suite 1
Clarkston, MI 48346
Location: **Parcel Number 12-01-127-001**
Request: The applicant requests to waive the installation of landscape irrigation, requiring a variance from Article 5.19.B.iii.a, Irrigation Requirements.

Chairperson Spencer noted for the record 6 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 a brief report.

Member Schillack asked staff if the applicant could ask for a waiver from the Planning Commission for the irrigation along the sides and rear of the property. Staff Planner Quagliata said no, not without a site plan amendment as the plan already received preliminary site plan approval from the Township Board and final site plan approval from the Planning Commission.

Member Powell asked staff if the landscaping proposed on the plan was the required amount. Staff Planner Quagliata confirmed, and said without irrigation the plantings in the side and rear yards would likely die.

Casey Leach, 5852 S. Main Street, was present to speak on the case. He said the landscape plan proposed was not the same plan the Planning Commission approved. He said his firm redid the original landscape plan, and came up with a plan per the zoning ordinance. He said the ordinance encouraged water conservation, and an irrigation waiver could be requested from the Planning Commission.

Staff Planner Quagliata noted an irrigation waiver could only be requested from the Planning Commission if a landscape plan was prepared by a certified/registered landscape architect, and the proposed landscape plan was not prepared by a certified/registered landscape architect.

Mr. Leach said the plantings provided were drought resistant, and the applicant would replace any dead plants. He stated the practical difficulty was due to the applicant not being a landscape professional. There was a swale on the east side of the property to provide natural irrigation.

Member Schillack complimented the applicant's site plan for having the appropriate call outs for well and septic. He asked the applicant what about the property made it unique to the requested variances.

Ty Nuottila, 840 Sherbrooke, owner, said the landscaping on the sides and rear yard property would not be visible from the road.

Member Powell asked the applicant why the previous landscape professionals design was not used. Mr. Nuottila said he put the plantings in the best possible area, and there was a professional conflict with the previous landscape professional.

Chairperson Spencer opened the public hearing at 6:33 P.M. Seeing no public comment, she closed the public hearing at 6:33 P.M.

Member Powell asked staff what part of the property was visible to adjacent properties. Staff Planner Quagliata said the landscaping could be viewed from the west and east. Mr. Leach said he was working with the owners of the adjacent properties, and would be ensuring the landscaping among the three properties would be harmonious.

Member Dehart said this matter should be sent back to the Planning Commission. Staff Planner Quagliata said the landscape design would have to be certified by a registered landscape architect, and that type of waiver had not been historically granted by the Township.

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

- A. Practical Difficulty
 - Member Seiber said he did not see anything about the property that would demonstrate a practical difficulty.
- B. Unique Situation
 - Member Dehart said there was not a practical difficulty demonstrated.
- C. Not Self-Created
 - Member Dehart said there was a self-created problem.
- D. Substantial Justice
 - Member Schillack said in contrast, approval would grant rights to the applicant that others would not have.

E. Minimum Variance Necessary

- Chairperson Spencer said she did not see a minimum variance necessary.

Member Powell said White Lake Township was pleased to have the business within the Township, but needed the owner to adhere to the same rules other businesses did.

Member Powell MOVED to deny the variance requested by Kieft Engineering – Casey Leach, P.E. for Parcel Number 12-01-127-001, due to the following reason(s):

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

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

- F. Applicant: Kieft Engineering – Casey Leach, P.E.
5852 S. Main Street, Suite 1
Clarkston, MI 48346
Location: **10431 Highland Road**
White Lake, MI 48386 identified as 12-22-252-022
Request: The applicant requests to complete site improvements, requiring variances from Article 5.11.A.iv, Off-Street Parking for Non-Residential Uses in a Required Front Yard Setback, Article 5.11.Q.xi, Off-Street Parking Space Surface Standards, Article 5.19.B.iii.a, Irrigation Requirements, Article 5.19.G, Parking Lot Landscaping, and Article 5.12, Fences, Walls and Other Protective Barriers.

Chairperson Spencer noted for the record 16 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 a brief report.

Member Seiber asked staff if the site plan was considered by the Planning Commission. Staff Planner Quagliata said no, the site plan was administrative due to the non-building related site matters requested from the applicant.

Member Schillack asked staff about the drive access. Staff Planner Quagliata said the cross access to the east would be maintained and a reciprocal access easement would be established. There was no requirement for the easement to the west since the parking lot was not being extended to the west.

Member Dehart asked staff if there was curb between the subject property and the property to the west. Staff Planner Quagliata said no.

Casey Leach, 5852 S. Main Street, was present to speak on the case. He said in this instance, he was asking for irrigation to be removed on the east and rear yard lot line due to the contamination. A hazard specific safety plan would be developed as the construction would carry on. The Michigan Department of Environment, Great Lakes, and Energy (EGLE) requested the site have gravel surface to avoid digging the contaminated soil. The fence in the rear of the property encroached over the property line, and he proposed the fence to encroach over the property line due to nearby power poles. He said the building was too close to M-59, like similar surrounding buildings in the area. The property owner wanted to provide parking outside the proposed front yard privacy fence in the unlikely event it was needed by customers. The Michigan Department of Transportation (MDOT) said parking in the right-of-way (ROW) would not be permitted, but the parallel spaces, associated access aisle, sidewalk, and greenbelt would be permissible if the Township agreed and the applicant would enter into an agreement with MDOT.

Member Seiber thanked Mr. Leach for his response letter.

Member Schillack asked Mr. Leach if the plume was contained. Mr. Leach believed it was, and there were no more monitoring wells as the site.

Member Powell asked staff where the proposed handicap parking spaces would be located. Staff Planner Quagliata said a handicap space would be in front of the building with ADA accessible landing pavement.

Member Powell stated the ZBA could not grant a variance for something located in the ROW. Staff Planner Quagliata said requiring a license agreement from MDOT would be a condition of approval.

Member Dehart asked staff if gravel surfacing was a requirement of EGLE. Staff Planner Quagliata said all surfacing would be consistent with what EGLE required of the site. If the plan received administrative site plan approval, EGLE would then review the plan for concurrence.

Chairperson Spencer opened the public hearing at 7:10 P.M. Seeing no public comment, she closed the public hearing at 7:10 P.M.

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

A. Practical Difficulty

- Member Seiber said contamination of the site and the location of the existing buildings demonstrated a practical difficulty.
- Member Powell added the stormwater would be increased in the chance the site was paved, which was what EGLE wanted to avoid due to the contamination.

B. Unique Situation

- Chairperson Spencer said the site was uncommon due to the contamination.

C. Not Self-Created

- Chairperson Spencer said there was no contamination caused from the current owners of the building; therefore, it was not a self-created problem.

D. Substantial Justice

- Member Schillack said the variances would allow the applicant to use the site without disrupting the existing plume.

E. Minimum Variance Necessary

- Chairperson Spencer said she saw the minimum variance necessary.
- Member Seiber said all of the applicant's requested variances, with the exception of the irrigation variance, made sense to him.

F. Compliance with other Laws

- Member Powell said compliance with EGLE laws and the restrictive covenant placed on the site.

Member Powell MOVED to approve the variances requested by Kieft Engineering – Casey Leach, P.E. from Article 5.11.A.iv, Article 5.11.Q.xi, Article 5.19.B.iii.a, and Article 5.12 of the Zoning Ordinance for Parcel Number 12-22-252-022, identified as 10431 Highland Road, in order to allow parking 13 feet within the required setback from the front property line, gravel surfacing along the west and south property lines, no irrigation in all lawn along the east property line, and fence encroachment in the Glynn Road right-of-way. This approval will have the following conditions:

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Division.**
- **The Applicant shall receive administrative site plan approval from the Township.**
- **The site plan must comply with the Declaration of Restrictive Covenant for a Restricted Non-Residential Corrective Action relating to the property.**
- **Prior to the provision of parking within the required setback from the front property line, the Applicant shall receive a license agreement from the Michigan Department of Transportation (MDOT) and provide a copy of said license agreement and/or permit to the Community Development Department.**
- **Prior to the installation of fencing in the Glynn Road right-of-way, the Applicant shall obtain the required Road Commission for Oakland County (RCOC) permit and provide a copy of said permit to the Community Development Department.**
- **The Glynn Road access point/driveway shall be removed and converted to lawn and landscaped in accordance with the site plan.**
- **Any future modification to site access, except for modification in compliance with the Zoning Ordinance, shall require approval of the Zoning Board of Appeals and/or Planning Commission.**

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

- G. Applicant: Black Rock White Lake, LLC
30553 S. Wixom Road, Suite 300
Wixom, MI 48393
Location: **9531 Highland Road**
White Lake, MI 48386 identified as 12-23-129-018
Request: The applicant requests to construct a restaurant with alcoholic beverages, requiring variances from Article 6.4.C.i, Minimum Driveway Spacing – Same Side of Road, Article 6.4.C.ii, Minimum Driveway Spacing – Opposite Side of Road, Article 6.4.C.iii, Minimum Driveway Spacing – Relative to Intersections, and Article 5.19.D.i, Required Minimum Screening and Landscaping.

Chairperson Spencer noted for the record 24 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 a brief report.

Chairperson Spencer asked staff if landscaping was allowed within a utility easement. Staff Planner Quagliata said smaller trees and shrubs were allowed.

Member Seiber asked staff if the Township Engineering Consultant commented on the inbound left turns. Staff Planner Quagliata said the Engineer did not have an issue with the driveway.

Bruce Calhoun, 1111 Creekwood, was present to speak on the case. He said the driveway had been changed to prohibit left out as suggested. He said while not shown on the revised submitted landscape plan, they would like to propose arborvitaes on the rear property line instead of a privacy fence. He said the drive needed to be on the main road to eliminate truck traffic on Whitebanks Boulevard. The setbacks to the other drives and roads were problematic due to the location of the site.

Member Schillack thanked the applicant for the work on the southern end of the property to provide a safer solution.

Member Powell stated he was concerned with arborvitaes in the sense they could thin out or die.

Chairperson Spencer opened the public hearing at 7:38 P.M.

John Hunt, 871 Oxhill, spoke in opposition of the applicant's request for the arborvitaes in lieu of the masonry screen wall.

Ed Liker, 847 Oxhill, spoke in opposition of the applicant's request for the arborvitaes in lieu of the masonry screen wall.

Mr. Calhoun stated when the wall was proposed, it was 20 feet away from the utility easement.

Chairperson Spencer closed the public hearing at 7:44 P.M.

Member Powell said he agreed with the homeowners about the need for a concrete, brick-faced screen wall. A wall like that would also serve as a sound-dampening device. He was in favor of the wall being put on the property line, and up against the existing fence. The landscaping in that area would need to be placed to serve the neighbors. He added a right in, right out entrance would serve the site well. If the inbound left-hand turn was eliminated, it might increase stacking of vehicles turning on Whitebanks from the east.

Member Schillack stated right in, right out made the most sense. He stated there needed to be an entrance/exit on M-59.

Member Dehart asked staff if the screen wall could be higher than six feet. Staff Planner Quagliata said it could with a variance. Member Dehart said the wall should be on the property line to avoid creating an alley. She stated it would look nice to have the arborvitaes and the wall. She would like to see the wall constructed at eight feet in height.

The ZBA continued to discuss the issue of site driveways.

The ZBA discussed the variance regarding the fence.

Chairperson Spencer asked the homeowners what they would prefer in fence height. The residents present said they would prefer a masonry screen wall six feet in height.

Lonnie Morgenroth, owner of Black Rock, said he tried hard to be compliant with the Township. He wanted to be compliant as he had been in the community since the 1970s and was a graduate of Lakeland High School class of 1983. He said he wanted a fence to be built on the property line.

Member Powell said the three variances regarding the driveway were dependent on each other.

Member Seiber said he would have liked more guidance from the Township Engineering Consultant.

Staff Planner Quagliata said the Engineer would not specifically comment on the Zoning Ordinance in regard to safety of driveways; they only reviewed traffic studies for traffic functionality.

Director O'Neil said MDOT would have the final say on a driveway permit, and MDOT would be able to tighten up an approval made by the Township, but most likely would not loosen it.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance in regards to variance #4:

- A. Practical Difficulty
 - Member Powell said the utility easement provided a practical difficulty.
- B. Unique Situation
 - Member Powell said there was a unique situation.
- C. Not Self-Created
 - Member Dehart said the utility easement was not created by the applicant.
- D. Substantial Justice
 - Member Powell said justice would be given to the homeowners behind the property, and the property owner as well. Member Schillack agreed.
- E. Minimum Variance Necessary
 - Member Schillack said it had to be the minimum variance to give everyone a safe situation.

Member Powell MOVED to approve the variances requested by Black Rock White Lake, LLC from Article 5.19.D.i of the Zoning Ordinance for Parcel Number 12-23-129-018, identified as 9531 Highland Road, in order to allow deviations from the applicable landscape and screening requirements and to allow for a reinforced concrete screen wall at a six foot minimum height with masonry panels structurally supported to allow for a drainage gap between the bottom of the wall and grade (to allow for drainage patterns to be maintained) no more than two inches from grade to be placed on or as practically close to the property line in concurrence with the plan dated April 14, 2023, exception for the south end to be placed at the edge of the currently proposed snow storage area per the plan. This approval will have the following conditions:

- All conditions of previous approvals shall remain in effect.
- The landscape plan shall be revised to comply with the tree and shrub requirements conditioned by the previous landscape and screening variance approval.
- The landscape plan shall be revised to provide an additional four evergreen trees approximately every 70 feet north of the fence along the westerly segment of the rear property line. The tree species shall be subject to Planning Division approval.

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

Member Powell stated the facade design of the wall should be submitted to the Planning Division for consideration and final approval from the Planning Commission.

Member Seiber MOVED to approve the variances requested by Black Rock White Lake, LLC from Articles 6.4.C.i, 6.4.C.ii, 6.4.C.iii of the Zoning Ordinance for Parcel Number 12-23-129-018, identified as 9531 Highland Road, in order to allow construction of a driveway on Highland Road with a right in, right out configuration. No inbound/outbound left turn will be allowed.

Chairperson Spencer SUPPORTED and the motion CARRIED with a roll call vote: (3 yes votes). (Seiber/yes, Spencer/yes, Dehart/no, Schillack/yes, Powell/no).

OTHER BUSINESS

None.

NEXT MEETING DATE: June 22, 2023

ADJOURNMENT

MOTION by Member Schillack, supported by Dehart to adjourn at 9:26 PM. The motion CARRIED with a voice vote: (5 yes votes).