

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS
AUGUST 24, 2023**

CALL TO ORDER

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

Roll was called:

ROLL CALL

Present:

Jo Spencer, Chairperson

Mike Powell, Board Liaison

Debby Dehart, Planning Commission Liaison

Clif Seiber

Niklaus Schillack, Vice Chairperson

Others:

Justin Quagliata, Staff Planner

Hannah Micallef, Recording Secretary

APPROVAL OF AGENDA

MOTION by Member Powell, seconded 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 July 27, 2023

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

CALL TO THE PUBLIC

None.

OLD BUSINESS

None.

NEW BUSINESS

- A. Applicant: Mykhailo Novoselskyi
7843 Turrillium Lane
Waterford, MI 48327
Location: **9755 Portage Trail**
White Lake, MI 48386 identified as 12-26-177-019
Request: The applicant requests to exceed the allowed value of improvements to a nonconforming structure, requiring a variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures.

Chairperson Spencer noted for the record 31 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.

The applicant's representative, Aleksander Kudryavstev, 7843 Turrillium Lane, was looking to renovate the building so his father-in-law could have a house in which to retire.

Member Powell asked the applicant if he was a licensed builder. Mr. Kudryavstev said no, but he would be using licensed builders. Member Powell asked the applicant who designed the plans that were submitted to the Building Department. Mr. Kudryavstev said he did a basic drawing, and once approved, he would submit more detailed drawings. Member Powell asked the applicant what type of foundation the home had. Mr. Kudryavstev said the foundation was cinderblock, and he would be reinforcing the foundation as well. The roof would be redone as well.

Member Powell said he was concerned with approving variances this evening when there could be other structural issues with the house that might require the whole building to be demolished.

Member Dehart asked the applicant where the septic was located. Mr. Kudryavstev said the septic was behind the house, and it was operational. Member Dehart asked the applicant if the field was probed. Mr. Kudryavstev said there was an issue with the lack of a sump pump in the house, and did not think there was a septic issue. When the sump pump was installed, the standing water issue outside was rectified.

Member Dehart asked staff if the Building Department would be involved with the septic field. Staff Planner Quagliata said the Building Division did contact the County Sanitarian, and it was indicated the septic field could be utilized without the need for an engineered field only if the existing building remained.

Chairperson Spencer opened the public at 7:17 P.M. Seeing no public comment, she closed the public hearing at 7:17 P.M.

Member Schillack asked staff if the applicant would need a plot plan for a new construction build. Staff Planner Quagliata confirmed.

Mr. Kudryavstev said his father-in-law wanted to live on the property, but as a retired person, the proposed option was the feasible option. Staff Planner Quagliata said the ZBA could not consider financial hardships.

Member Powell said it could potentially cost less to construct a new house than to renovate the existing one.

Tatianna, 7843 Turrillium Lane, Waterford, asked about grandfathering the house. The ZBA came to the consensus of postponing the applicant's request to give the applicant time to come up with more detailed drawings proving the structural integrity of the building.

Member Powell moved to POSTPONE the appeal of Mykhailo Novoselskyi to a date certain or other triggering mechanism for Parcel Number 12-26-177-019, identified as 9755 Portage Trail, to consider comments stated during this hearing after drawings are submitted to the Building Division to show the structure is salvageable.

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

B. Applicant: John Strine
140 Forest Crest Drive
Commerce, MI 48390

Location: **Parcel Number 12-26-408-025**

Request: The applicant requests to construct a single-family house and an accessory building (detached garage), requiring variances from Article 3.1.6.E, R1-D Single Family Residential Front-Yard Setback, Side-Yard Setback, Maximum Lot Coverage, Minimum Lot Area, and Minimum Lot Width. A variance from Article 3.11.J, Minimum Floor Area is also required.

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 gave a brief report.

Member Powell asked staff what additional variances would be required if the garage were attached to the house. Staff Planner Quagliata said there would be no additional variances needed, and by attaching the garage to the house, one variance would be eliminated.

Member Seiber asked staff about the definition of lot width. Staff Planner Quagliata said the lot width was measured at the front setback line. The lot had two front yard setbacks due to it being a corner lot, and per the Zoning Ordinance, both of the front yards need to meet the minimum lot width requirement.

John Strine, 140 Forestcrest Drive, said he wanted to construct a two-story house on the property. He said he tried to keep the size of the house as small as he could. He was unaware of the variance needed for the garage.

Member Schillack asked the applicant why he chose a detached garage. Mr. Strine said he could attach the garage, he had it drawn detached to save space on the lot.

Member Seiber said the separation between the house and the garage scaled to about 16 feet. The house as drawn was extended 7 feet past the house next door. Mr. Strine said he wanted to keep room on the lot for potential kids to play. He added if the garage was attached to the house, the play area would be behind the garage.

Mr. Strine offered to give up a variance request on the south side to shift the house north. There were large setbacks from the edge of the road due to the extent of the right-of-way.

Member Seiber asked staff if the garage was attached to the house, would it have to meet the rear yard setback of 30 feet. Staff Planner Quagliata confirmed.

Member Dehart asked the applicant if the square footage could be increased to eliminate the variance for square footage minimum. Mr. Strine said he would have to make the house bigger. Member Powell said by doing that, the lot coverage would be increased as well.

Chairperson Spencer opened the public hearing at 7:51 P.M. Seeing no public comment, she closed the public hearing at 7:51 P.M.

The ZBA discussed eliminating the side yard variance request and granting a greater variance for the front yard variance request on Northeastern.

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

A. Practical Difficulty

- Member Dehart said there was a practical difficulty with the lot. Member Schillack agreed, and added the narrowness of the lot was a practical difficulty.

B. Unique Situation

- Member Powell said the Zoning Ordinance made the lot nonconforming.

C. Not Self-Created

- Member Seiber said the applicant did not plat the lot himself; there was not a self-created problem.

D. Substantial Justice

- Member Schillack said a lot of the houses in the area were able to have homes on similarly nonconforming lots. The applicant would be able to do what the neighbors had already had done.

E. Minimum Variance Necessary

- Member Schillack said increasing the side setback from 7 feet to 10 feet helped.

Member Powell moved to APPROVE the variances requested by John Strine from Articles 3.11.J and 3.1.6.E of the Zoning Ordinance for Parcel Number 12-26-408-025 in order to construct a single-family house with 832 square feet on the first floor and total floor area of 1,490 square feet, encroach 12.8 feet into the required north front yard setback and 6.5 feet into the required east front yard setback, and exceed the allowed lot coverage by 4.9%. A 27-foot variance from the required lot width and a 6,355 square foot variance from the required lot area are also granted from Article 3.1.6.E. A 7.4-foot variance to allow an accessory building (detached garage) to encroach into the required north front yard setback 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.**
- **In no event shall the projection of a roof overhang be closer than five feet to a lot line.**

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

- C. Applicant: Lorena Hawkins
 1190 Sugden Lake Road
 White Lake, MI 48386
 Location: **1190 Sugden Lake Road**
 White Lake, MI 48386 identified as 12-33-477-003
 Request: The applicant requests to construct an elevated deck within the natural features setback, requiring a variance from Article 3.11.Q, Natural Features Setback.

Chairperson Spencer noted for the record 17 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 1 letter was returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave a brief report.

Member Schillack asked staff if a certified survey was required for this application. Staff Planner Quagliata said not for the application since the house and lot were compliant, but if the deck was approved and constructed, a survey would be required for the area in question.

Member Schillack asked staff if a site plan needed to be certified. Staff Planner Quagliata said if there was a question in regards to a setback dimension, a site plan/plot plan was required to verify compliance.

Lorena Hawkins, 1190 Sugden Lake Road, was present to speak on her case. She just received her survey today. She presented the survey to the ZBA. Her husband, Michael Hawkins, was present as well. She also presented two letters from her neighbors on each side in favor of her request. Mr. Hawkins said the variance requested would be a 15-foot variance, not an 8-foot variance. He said the property was difficult to utilize.

Member Powell asked the applicant if the proposed deck would have the same elevation as the existing deck. Mr. Hawkins said no, there would be two steps and a top deck.

Member Powell asked the applicants their reasoning for encroaching into the natural features setback. Mr. Hawkins said he could not wrap the deck around the north side of the house due to impeding on the well. If he wrapped the deck around the south side, the deck would encroach on the neighboring lot.

Member Powell informed the applicants if the deck were extended to the north, the deck could be elongated from the north and pulled from the west to reduce the variance requested. Mr. Hawkins said his idea was not to get closer to the lake; it was to have a larger area to put out his furniture. He was not trying to be on top of the lake, and the proposed deck was smaller than the surrounding neighbors. Mr. Hawkins said the reason for the deck's location was he did not utilize any of the property north of his dock. The south was where his children played. There was a bay window on the south part of the house a deck would impede. Staff Planner Quagliata stated the Township did not have a view ordinance.

Chairperson Spencer opened the public hearing at 8:25 P.M. She read two letters in favor of the applicant's request into the record. Chairperson Spencer closed the public hearing at 8:27 P.M.

Member Seiber said the lot was huge, as well as the width of the lot being double the required size for the R1-D zoning classification. There was room on the lot to construct a deck without encroaching into the natural features setback.

Member Dehart said the drop-off and topography of the lot presented a practical difficulty.

Mr. Hawkins said the top part of the deck would be attached to the house and covered, and the 20 by 20 area would be open.

Member Powell asked staff if the natural features setback was to protect the natural feature, i.e., the water. Staff Planner Quagliata confirmed. Member Powell said due to the height of the proposed deck, it would be less of an impact to the natural features than if the deck were flat and closer to the ground.

Member Dehart asked staff if the applicants would need a variance if a slab was being poured in the proposed area. Staff Planner Quagliata said no, but the grade could not be artificially altered.

Member Seiber said the drop-off presented a problem for the applicant, and he said the applicant could redesign the deck to reduce the variance requested.

Member Dehart asked the applicant if they could reduce the size of the deck. Mr. Hawkins said he would be hard-pressed to throw out a number that would be comfortable for him.

Member Powell move to POSTPONE the appeal of Lorena Hawkins to a date certain or other triggering mechanism for Parcel Number 12-33-477-003, identified as 1190 Sugden Lake Road, to consider comments stated during this hearing.

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

The ZBA recessed at 8:49 P.M. The ZBA returned to session at 8:51 P.M.

- D. Applicant: Kim McFadden
 9693 Bonnie Briar Drive
 White Lake, MI 48386
 Location: **9120 Buckingham Road**
 White Lake, MI 48386 identified as 12-14-280-014
 Request: The applicant requests to alter a nonconforming structure, 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 the increase in cubic content.

Chairperson Spencer noted for the record 31 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 1 letter was returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave a brief report.

Member Powell asked staff if a letter was previously provided from a structural engineer. Staff Planner Quagliata confirmed, but said a concern during the 2020 request was the report did not indicate if the structure could support a second story.

Chairperson Spencer asked staff if the Fire Marshal reviewed the case in 2020. Staff Planner Quagliata confirmed, and said the then Fire Marshal, current Fire Chief, recommended denial of the side yard variance request due to safety concerns.

Kim McFadden, 9693 Bonnie Briar, was present to speak on behalf of her case. She said she only wanted to change the pitch of the roof. She would not be adding square footage to the house. She said an engineer did come out to the house and said the house could support a second story.

Member Schillack asked the applicant why the SEV was greater now than in 2020. Ms. McFadden said in 2020, the water was turned off, and she was trying to help the individual who lived there at the time, so she had the previous Assessor reduce the value. Then she had the previous Assessor raise the SEV.

Member Seiber asked the applicant if any more living space would be created on the second floor. Ms. McFadden said no.

Member Powell asked the applicant why they were not going with a more traditional house in the center of the lot. Ms. McFadden said she could not lose the basement. Her builder Andrew Polosky, 2059 Kingston, said the foundation would have to be removed to destroy the house, and the neighbor's driveway would fall in due to the soil quality in the area.

Chairperson Spencer opened the public hearing at 9:04 P.M. Seeing no public comment, she closed the public hearing at 9:05 P.M.

Member Dehart asked the applicant if the basement wall could be left and backfilled. Mr. Polosky said according to building code no.

Member Powell stated the builder was incorrect and the wall could be backfilled without issue, and a brand-new house could be built in the center of the parcel.

Mr. Polosky said interest rates had gone up over the year, and it was not a good time to build.

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

A. Practical Difficulty

- Member Powell said the only reason the applicant was not putting an ordinance compliant house on the lot was due to finances, and the lot could support an ordinance compliant house.
- Member Schillack said he did not see a practical difficulty due to the lot providing a large building envelope.

B. Unique Situation

- Member Powell said the parcel had more area than most in the surrounding area.

C. Not Self-Created

- Member Powell said there was a self-created problem.

D. Substantial Justice

- Member Schillack said he would be concerned about safety.
- Member Powell said the reason the ZBA could not allow less than a 5-foot side yard setback was due to public health, safety, and welfare.

E. Minimum Variance Necessary

- Chairperson Spencer did not see a practical difficulty.
- Member Dehart said the ZBA was prohibited from granting the variance due to Section 7.27.vii of the Zoning Ordinance.

Member Schillack moved to DENY the variances requested by Kim McFadden for Parcel Number 12-14-280-014, identified as 9120 Buckingham Road, due to the following reason(s):

- **The ZBA was not legally allowed to grant the variance based on Section 7.27.vii and Section 5.3 of the Zoning Ordinance.**
- **Failure to meet the standards of Article 7, Section 37 of the ClearZoning Ordinance.**

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

OTHER BUSINESS

None.

NEXT MEETING DATE: September 28, 2023

ADJOURNMENT

MOTION by Member Dehart, seconded by Member Powell to adjourn at 9:22 P.M.
The motion carried with a voice vote: (5 yes votes).