

- I. Call the meeting to order.
Staff member St. James called the meeting to order at 4:00pm and requested a motion from the Board to elect an Acting Chairperson since the Chairman and Vice Chairman were both absent.

MOTION AND VOTE:

Moved by Joliat

Supported by Moore; to elect Colleen Murphy as Acting Chairperson.

MOTION CARRIED UNANIMOUSLY

(6-0)

Roll Call.

Present:

Karen Joliat, Board Member
Colleen Murphy, Board Member
Todd Hoffman, Board Member
Stan Moore, Board Member
Rick Schneider, Alternate Board Member
Todd Bonnivier, Alternate Board Member

Absent:

David Zuehlke, Chairman
Gary Crake, Vice chairman
Steve Reno, Board Member

General Public:

Approximately 15

Also Present:

Stacy St. James, Environ. and Housing Rehab Coordinator
Amy Williams, Administrative Specialist
Gary Dovre, Township Attorney
Brent Gibson, Building Superintendent
Dave Hills, Building Inspector
Rob Merinsky, Director/Engineering
Kirk Simpson, Chief Code Enforcement Officer
Gary Wall, Township Supervisor
Larry Lockwood, Superintendent/Planning

- II. Approve the Minutes of the December 19, 2017 special meeting of the Zoning Board of Appeals as printed.

MOTION AND VOTE

Moved by Joliat

*Supported by Moore; RESOLVED to **APPROVE** the Minutes of the December 19, 2017 special meeting of the Zoning Board of Appeals as printed.*

MOTION CARRIED UNANIMOUSLY

(6-0)

III. PUBLIC HEARINGS

OLD BUSINESS**Case No. 5501-A**

Sidwell No. 13-17-101-041, Section 17, Lot 43, "Williams Lake Grove", T3N, R9E, Waterford Township, Oakland County, Michigan

Property Location: 6871 Forestlawn Ct
Property Zoned: R-1C, Single-Family Residential

In response to an appeal by Jeffrey Wolf in Oakland County Circuit Court Case No. 2018-163021-AA, from the Zoning Board of Appeals decisions on November 21, 2017 in Case No. 5501, and December 19, 2017 in Case No. 5501-A, that granted variances for the property at 6871 Forestlawn Court, the following has been remanded by the Circuit Court to the Zoning Board of Appeals in order to make findings on the variance review standards in Section 6-100.5 of the Township Zoning Ordinance based on evidence in its records for the decisions that have been appealed, and any evidence or argument on those standards that may be presented at or for the hearing, regarding the following variances from the indicated Zoning Ordinance Sections that were granted by the Zoning Board of Appeals on December 19, 2017, in Case No. 5501-A:

1. A 28.9 ft. variance from Section 3-900 to allow the proposed attached garage to come to within 6.1 ft. of the east lake rear property line. (35 ft. minimum required)
2. A 27.4 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 4.6 ft. of the east lake rear property line. (32 ft. minimum required)
3. A 2.7 ft. variance from Section 3-900 to allow the proposed attached garage to come to within 2.3 ft. of the south side property line. (5 ft. minimum required)
4. A 3.4 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 1.6 ft. of the south side property line. (5 ft. minimum required)
5. A 9.7 ft. variance from Section 2-213.2.B(3) to allow the proposed attached garage to come to within 15.3 ft. of the south canal shoreline. (25 ft. minimum required)

Applicant or representative present: Eric Sawyer and his architect, Heather Moldenhauer

Attorney Dovre addressed questions from the Board regarding what was expected during this meeting.

Mr. Sawyer questioned if he was supposed to re-present his case to the Board.

Board Members asked Mr. Sawyer or his architect to go over their request from the December meeting.

Ms. Moldenhauer read the following into the record from a prepared statement: The property located at 6871 Forestlawn Court required variances which were previously approved. The attached garage is being erected partially where an existing garage was that collapsed. The original intent was to keep the existing walls, but they collapsed while the existing roof was being prepared for the 2nd story addition. It was found that there

was a large tree stump that had been pushing the foundation and the wall causing the collapse. The garage can only be built in this location due to the existing residence having existing 2nd story bedroom windows that would be blocked for egress if the garage was moved further north, thus creating a hardship. These 2nd story egress windows are the only windows in those 2 bedrooms. The garage has been moved further north and away from the side yard setback and has been downsized to move it farther from the property line. The previous existing garage was only 10" from the South property line. The proposed attached garage is being moved north to increase that distance to 2'-4" from the South property line. The footprint is also decreased by 4'-0" from the West side. The 2nd story bedroom windows for egress prevent the attached garage from being moved any closer to the existing residence. Regarding zoning ordinance 2-213.2.B, new buildings are allowed within 25 feet of the water line according to exception 3 in section 2-213.2.b, "upon the appeal of a property owner...the ZBA may establish a reduced setback for buildings to not less than ten feet..." the corner will maintain a 15'-0" minimum from the edge of the water on the canal. It can be agreed upon that this lot is not typical and is an irregular lot in this neighborhood. Both neighbor's properties border along the North and East rather than opposite sides like the majority of properties do. The majority of water front properties' rear setbacks run along the road. 6871 Forestlawn's rear setback runs along a neighbor, 6863 Forestlawn Court, on the East property line. This is why we are still maintaining a minimum of 10'-0" between the attached garage and the existing neighbor's structure to maintain fairness for the neighbor at 6863 Forestlawn Court. 6863 Forestlawn's a/c unit, chimney and the structure itself are all nonconforming due to being within the required 5'-0" sideyard setback. We are being more than fair to the neighbor by allowing more than the required 5'-0" yard setback to allow a minimum of 10'-0" between the two structures. The required setbacks on this irregular lot create a hardship in itself. There is no other way for Mr. Sawyer to add living usable square footage without impeding on the 35' rear yard setback. The neighbor, Jeffrey Wolf, at 6863 Forestlawn Court has argued that the proposed attached garage will block his view to the lake. The photo here taken out on the water (shows photo to Board) shows that there was not any view from 6863 Forestlawn Ct to the lake. 6863 Forestlawn Court is on a canal to Williams Lake. His view of the lake does not change based on the previous garage or the proposed attached garage. He has to go to the canal to look out and see the lake as previously. One of the common complaints about the garage addition is the lake view that will be allegedly blocked. As shown in Exhibit 'A' of your packet, that were previously given to you in December, none of the residents on the canal frontage have any existing view to the lake that will be interrupted by this attached garage. Their existing lake view still maintains through the canal. There has been some discussion regarding the canal subdivision's sliver of land between Mr. Sawyer's property and the canal. There is no public access to this sliver of land from Mr. Sawyer's property. Also in your packet from the December meeting and on this board here, Exhibit 'B' illustrates the deep setback that is still being maintained from the road. As you can see, the majority of the properties on Forestlawn Court have nonconforming structures. The location of the proposed attached garage helps maintain an open setback from the road compared to multiple other residences along the street. This still allows for ample guest parking for about 7 vehicles. Exhibit 'D' in your packet illustrates how close the neighboring property is to the property line. As previously stated, the a/c unit, chimney and structure itself are within the 5'-0" setback. It also shows how the garage addition will still maintain a minimum of 10'-0" access between the 2 structures. Exhibit 'E' illustrates a similar situation where the variance was

granted to allow a similar garage to be built within the rear yard setback. The zoning board has shown precedence that they have approved variances for a rear yard setback situation. It is seen all along Forestlawn Court, as shown in Exhibit 'B', 'F', & 'G'. The renovation will include a combination of stone veneer, cedar shake siding, and Hardie board siding. These materials are much more aesthetically pleasing than vinyl siding and will help beautify Forestlawn Court (shows photo rendering to Board). To reiterate, the garage cannot be moved further north due to the existing 2nd story bedroom egress windows and strict compliance with the East property line as the rear yard setback creating a hardship. This proposed addition is not self-created, is unique based on the lot, and does create a hardship for Mr. Sawyer. It will also ensure fairness for Mr. Sawyer and surrounding property owners.

During the public portion of the meeting the following spoke regarding this request:

Attorney Tom Ryan, of 2055 Orchard Lake Rd, Sylvan Lake, for Mr. Wolf, spoke that he was present for the December meeting and wants the Board to look at the six standards for the ZBA to grant a variance. Mr. Ryan referred to his February 7 and 9, 2018, letters to the Board, which with the pre-demolition and construction photographs attached to the February 7 letter, were confirmed to be in the record. Summarizing and supplementing those statements of Mr. Wolf's position on the variance standards, Mr. Ryan disputed that the applicant had shown a hardship, noting that at the prior hearings nobody asked the applicant why he needed this size of garage, which he characterized as a 4 car garage. He also questioned the need for the second story on the new garage, suggesting that the existing home it is attached to was in excess of 4,000 square feet. He disputes that his clients lack a view of the lake and relied on the pre-demolition photos submitted with his letter to the Board. He argues that this structure is not necessary, not needed and not fair for the surrounding neighbors, and that compliance with the ordinance without the requested variance does not unreasonably prevent the owner from using the property. Whether lesser variances than requested would give substantial relief to the applicant was not considered at the prior hearings, and the property does not support this request. He further argues that when this was approved in November, the owner was required to keep two walls and the slab, and that did not happen so he lost his nonconformity.

Mr. Sawyer clarified that it is only a 2 ½ car garage with no bedrooms. He indicated the existing house is only 2000 sq ft with a total of 2800 sq ft total. He felt the view that existed through the vegetation prior to the construction of the garage still exists.

Board Member Schneider questioned the use above the garage.

Mr. Sawyer indicated that it is a bonus room to be used as living space.

Board Member Moore questioned if they took all the photos themselves.

Mr. Ryan indicated that he had people take them.

Board Member Hoffman questioned who owned the arborvitae planted along the fence.

Mr. Sawyer indicated that he owned them.

Board Member Moore further questioned that there was ever a view of the lake. He commented that he had the plat maps of the area and the neighbor at 6863 is on the canal. He indicated that canal lots and lakefront lots are assessed the same.

Discussion continued between the Board and Mr. Ryan regarding the photos submitted.

Board Member Joliat questioned staff if a size variance was needed.

Board Member Moore questioned staff if a height variance was needed.

Staff confirmed that the size and height of the building were within what was allowed by the ordinance.

MOTION AND VOTE

Moved by Joliat

*Supported by Moore to **RECESS** for five minutes to allow members to prepare proposed findings to include in a motion.*

MOTION CARRIED UNANIMOUSLY

(6-0)

MOTION AND VOTE

Moved by Joliat

Supported by Moore to come out of recess.

MOTION CARRIED UNANIMOUSLY

(6-0)

MOTION AND VOTE

Moved by Moore

Supported by Joliat to AMEND the December 19, 2017 decision in this case that approved the five (5) setback variances requested, to include the following findings on the practical difficulty variance review standards in Section 6-100.5 of the Zoning Ordinance that the Applicant has demonstrated to my satisfaction, and based on these findings, to affirm the December 19, 2017 decision.

- A. ***Requiring strict compliance with the setback restrictions from which the variances were requested will be unnecessarily burdensome, with this finding based on the following:***

Due to the odd shape of the lot and existing home and garage, prevent the owner from using the property for its intended use. The T-shaped dead end street with non-conforming properties surrounding.

- B. ***The variances will do substantial justice to the Applicant, as well as other property owners, with this finding based on the following:***

The non-conforming layout of the side, rear and side lot, will not allow construction or reconstruction. By allowing this, it will increase the property value and surrounding property values.

- C. ***Lesser variances than requested will not give substantial relief to the Applicant and/or be consistent with justice to other property owners, with this finding based on the following:***

Applicant has shown a lesser variance would not give him substantial relief due to the 2nd story egress window, anything else would not meet current building standard.

- D. ***The need for the variances is due to the unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district, with this finding based on the following:***

Based on the odd shape of the lot and the unique setting, and the T-shaped dead end, creates a front and side lot property that are almost impossible to meet the current standards. It's a very unique condition.

- E. ***The problem and resulting need for the variances has not been self-created by the applicant and/or the applicant's predecessors, with this finding based on the following:***

The property and existing structure on the parcel were previously built. Structures were existing and non-conforming when Mr. Sawyer bought the property.

- F. ***The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done, with this finding based on the following:***

By allowing these variances, will be an improvement to the appearance of the neighborhood and the appearance of the property and will allow Mr. Sawyer some relief.

***MOTION CARRIED UNANIMOUSLY by Roll Call vote
(6-0)***

VI. Adjourn the meeting.

The meeting was adjourned at 4:41pm

These Minutes are not a verbatim record of all presentations to the Board. A video/audio recording of the meeting was made and will be part of the record of the meeting that is filed with the Court in Case No. 2018-163021-AA.

Exhibits presented to the Board and referenced in Ms. Moldenhaur's statement are attached.

EXHIBITS PRESENTED AT THE HEARING

Photo taken from the water as referenced in Ms. Moldenhauer's statement:



Architectural rendering as reference in Ms. Moldenhauer's statement:

