

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, APRIL 8 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 8, 2019 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:

Loren Yaros, Chairman
Dan Durham, Vice Chairman
Mike Flood, BOT Rep to ZBA
Lucy Koscierynski, Board Member

ZBA MEMBER ABSENT:

Don Walker, PC Rep to ZBA

CONSULTANT PRESENT:

Dave Goodloe, Building Department Official

OTHERS PRESENT:

Brian Miller
Dana Miller
Richard Koscierynski
Marc Ferguson
Fred Dewey
Rod Arroyo

1. OPEN MEETING

Chairman Yaros called the meeting to order at 7:00pm.

2. ROLL CALL

As noted

3. MINUTES

03-11-2019, Regular Meeting Minutes

Moved by By Trustee Flood, seconded by Secretary Koscierynski, to approve the 03-11-2019, Regular Meeting minutes as presented. **Motion carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2019-08, Board of County Road Commissioners of the County of Oakland, parcel #09-29-326-029

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 1 variance from Zoning Ordinance 78, Article XXVII, Section 27.05 (A)(4): 1) An 11.1-ft greenbelt separation area width variance from the required 20-ft. to allow the greenbelt separation area to be 8.9-ft from the Baldwin Road right-of-way to parking lot.

Rod Arroyo, Planning Consultant with Giffels Webster, presented. Mr. Arroyo introduced Fred Dewey with Dickens Wright and Tom Blust, from the Road Commission for Oakland County.

Mr. Dewey wanted to address some unusual circumstances, they were there on behalf of the Road Commission Applying for a variance regarding property owned by Lees Management, LLC. Mr. Dewey stated the Uniform Condemnation Procedures Act authorized them to do so, specifically under MCL 213.54. If a taking causes the property to non-conforming with an existing variance or zoning ordinance, the condemning authority can apply for the variance, which is why they were there.

Mr. Arroyo said we had specific criteria in our ordinance in granting a variance, they did provide in the report, but wanted to highlight some of the items on the report. Number 2 in the criteria says “describe how the request results from special or unique circumstances, particular to the property which are not applicable to other properties in the surrounding area”. This request is specifically due to a request by the Road Commission to make a substantial improvement to Baldwin Road. This is both a capacity and safety improvement by widening the road to 2 lines in each direction, and introducing a narrow median, which will provide for safety improvements. This variance is due to unique circumstances that are related to the conditions. These conditions do not regularly apply to all properties in the restricted business zoning district, rather each property is being addressed individually for those that are impacted by the Baldwin Road widening. Number 3 in the criteria says “If the appeal is granted, please explain why the variance will or will not be materially detrimental to the public health, safety and welfare or to the properties, or improvement within the Township”? Mr. Arroyo added the project stems for a need for a public improvement to enhance and improve the public health safety and welfare. He believes by granting this variance and providing for the ability of the roadway to be constructed, there will be benefits to Township residence and businesses. Number 4 states “Explain how the request is or is not consistent with other properties in the immediate area, and site examples if possible”? As show in their report, many properties are going to be impacted by the fact that the road will be widened. This subject property happens to have the advantage of the parking lot is set back farther from other parking lots in the general area, particularly to the south. There is already some additional greenspace there, it has that advantage. Even with the road widening this is still going to have greenspace between the parking lot itself and the edge of the curb. Number 5, “Describe how the alleged practical difficulty has not been self-created”? The property owner is not creating this, it is being created by the Road Commission and their need to construct a public improvement. Number 6, “Topography”? They do not believe that topography is an issue here so not applicable. Number 7, “Describe how strict compliance with the ordinance unreasonably prevents the owner from using his property for permanent purpose or to be unreasonably burdensome”? Strick compliance with the 20- foot set back would require of 13 parking spaces from this property. Only 29 spaces would be provided verses the 38 that are required if those 13 spaces were removed, therefore this property would be a non-conforming property in terms of the number of parking spaces, and those 13 highly visible spaces would be removed from the front if the variance was not granted, which would have an impact on the property as well. They are not aware of any appeals involving this property. This is not coming to us as a result of an ordinance violation. If you are interested in more information about the actual road improvement itself, Mr. Blust can address that.

Chairman, Yaros asked if there were any questions from the Board? There was not.

Chairman, Yaros asked if there were any questions from the audience to speak to this matter? There was not.

Moved by trustee Flood, seconded by, Chairman Yaros that in the matter of ZBA case #AB-2019-08 Board of County Road Commissioners of the County of Oakland, parcel #09-29-326-029, moved that the petitioners request for variances from Zoning Ordinance 78, Article XXVII, Section 27.05 (A)(4). An 11.1-ft. greenbelt separation area width variance from the required 20-ft. to allow the greenbelt separation area to be 8.9-ft from the Baldwin Road right-of-way to parking lot, be **granted** because the petitioner did demonstrate that the following standards for variances has been met in this case: the following Practical Difficulty (Due to the unique characteristics of the property and not related to general conditions in the area of the property): due to the widening of Baldwin Road improvement which will be

a safety factor on Baldwin Road. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that does not apply generally to other properties in the same district or zone: The parking lot is on Baldwin Road, and in order to save those spaces, this request is being made by the Road Commission. The variance is necessary for the preservation and enjoyment of potential property rights possessed by other property in the same zone or vicinity based on: the parking lot fronting Baldwin Road. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings: Baldwin Road widening and the safety of the new road. Further, this will not impair any adequate supply of light or air to adjacent property. It will not unreasonably increase the congestion in public streets. It will not increase the danger of fire or endanger the public safety. It will not unreasonably diminish or impair established property values within the surrounding area or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Flood, yes; Kosciuszynski, yes; Durham, yes; Yaros, yes.

Motion Carried 4-0

B, AB-2019-09, Marc Ferguson, 3140 W. Clarkston Road, parcel #09-08-376-008

Chairman Yaros read the petitioner's request as follows:

He is requested 4 variances from Zoning Ordinance 78, Article V, Section 5.04, Area and Bulk Requirements, Zoned SE:

1. A 10-ft. side yard setback variance, from the required 20-ft. side yard setback to build a pole barn 10-ft. from the side property line (east).

Article XXVII, Section 27.02 (A) (5) Buildings, Structures, and Uses

2. A 6.5-ft. variance above the height of the principal structure (16-ft.) to build a pole barn 22.5-ft. in height, 25-ft. away from the rear/side of the principal structure

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size Over 2.5 acres

3. A 1,736-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 2,560-sq. ft. pole barn in addition to the 576-sq. ft. detached garage for a total of 3,136-sq. ft. Maximum Floor Area of Detached Accessory Buildings
4. A 1,236 sq. ft. variance above the allowed 1,900-sq. ft. Total Maximum Floor Area of All Accessory Buildings for a total maximum of 3,136-sq. ft. of all accessory buildings.

Marc Ferguson, the applicant, presented.

Chairman Yaros asked Mr. Ferguson, explain to us why you need such a massive building?

Marc Ferguson replied that he has a lot of things, 2 boats, 3 classic cars, lawn mowers and trackers.

Chairman Yaros questioned, where do you have your items now?

Mr. Ferguson answered they are spread all over, his boats are in Oxford being stored, and they just contacted him last year and said that they sold the place so he can't store it there anymore. His cars are in the garage already, another one is in storage. He wants to put all his stuff in one place.

Chairman Yaros asked if there were questions by the Board?

Vice Chairman Durham asked, how long have you owned the property?

Mr. Ferguson replied that he purchased it in October of 2018.

Vice Chairman Durham questioned, was the garage that had the siding on it already there?

Mr. Ferguson answered, yes.

Vice Chairman Durham apologized in advance because he knows how this is going to sound. The first big dollar investment is going to be on a pole barn and not the house?

Mr. Ferguson replied, he will be working on the house also, and will be bringing the house back to life.

Vice Chairman Durham stated he saw the house and he saw the proposed pole barn and that had a commercial smell to him. Like you need this building so you can do some commercial stuff.

Mr. Ferguson replied, oh no. What do you mean by commercial smell?

Vice Chairman Durham answered, work on cars, store other peoples' stuff for money?

Mr. Ferguson answered, no not at all.

Vice Chairman Durham, stated that he looked at the house and looked at the proposed pole barn and it didn't tally in his mind.

Mr. Ferguson replied, no he was going to bring the house back to life. The house was built in 1939 and he is going to bring it back to life.

Vice Chairman Durham stated it seems that it is a substantially piece of property. It looks like it falls off towards the rear, into the wetlands.

Mr. Ferguson answered after talking to the neighbors when he bought it, they think he got the driest piece over there.

Vice Chairman Durham asked if he thinks that he can push the barn further to the north?

Mr. Ferguson replied, yes

Vice Chairman Durham, and alleviate the need for a variance, at least for the set-backs?

Mr. Ferguson answered, yes that would be to the west. He thought that it would be close, he wants to move it back. He had it staked out in the middle of the house, and now he wants to take it back to the back of the house. His downfall is that he must take 3 trees out. The chicken coop is also going to be taken down. He thinks that he can get close to the 20-ft. He stated that his well is at the back of the house, so it is going to be close to make that 20-ft there.

Trustee Flood stated, you have almost 4.68 acres there. There is no reason why you would have to ask for any set-backs by pushing that building further back.

Mr. Ferguson replied, he would like to keep it high and dry. It does drop off a bit and it would take a lot of fill and sand. He said that if he pushed it back, he would have to fill in where the trees are at, just behind the "chicken coop". He wanted to keep it high if he can.

Trustee Flood another concern is that it is a huge barn, on a piece of residential property, that is not boarding horses or something like that. It is 3x's the size of the house and the height is 14-ft. He has some concerns about the size, set-backs and the height.

Mr. Ferguson stated he is not putting big trusses in for storage. His theory is instead of breaking his back and having a storage truss, he was just going to put a smaller truss in. He doesn't want to climb that high to store his stuff. He would rather go the 14-ft. than 12-ft. and then build a bigger truss.

Secretary Koscierzynski stated she drove by to make sure that she knew what she was looking at, and she did some research about the property online. She thinks that it is a very large building. That is her only concern.

Chairman Yaros said his concern is also that it is 40x64. If you made it 30-ft. wide you wouldn't have to worry about the 10-ft. yard set-back. You can put it right about where it is and cut it down to 30 feet and you are 20 feet from the lot line, so that brings you to 30-ft. The question is how much you can get by with, because this is an awful big request, that everyone is going to see it.

Secretary Koscierzynski wanted to make a comment, she doesn't recall any pole barn coming before the Board that has been this large without having the petitioner compromise. Her concern is that it is so big, and people that have come in previously and asked for this kind of building, we have talked them into compromising. If we give this large of a building out, she believes that there will be some fall-out from it.

Chairman Yaros stated if you drive up and down Clarkston Road you notice 30x20, 30x30 and 30x40 maybe, but he didn't notice any that are this big. There may be some hidden back there he didn't see.

Mr. Ferguson replied he thinks his neighbor next door is a 30x50. He does have a bigger house and has open trusses too. He has talked to all the neighbors.

Secretary Koscierzynski said understand where we are coming from, she thinks that he is going to have to compromise.

Chairman Yaros stated, if you want us to vote on this we can, but he thinks Mr. Ferguson knows what it is going to be.

Mr. Ferguson asked realistically what can he build on it?

Chairman Yaros asked what can you get by with? You have a garage in the front, that is 24x24, which is 576 sq. ft. so you could put some cars in there. How big of a building would you need for the rest? You put a tracker in there and a couple of boats, 30x40 that is 1,500 sq. ft.

Mr. Ferguson questioned if a 30x50, would that be manageable?

Vice Chairman Durham asked do you know what you are allowed under ordinance.

Mr. Ferguson answered he thinks it was 1,400?

Vice Chairman Durham stated that one of the things that we have to take in mind is a principle called Practical Difficulty, and what that means is what is different about your property that causes the rules to have to change for you to get what you need to enjoy your property to the extent that your neighbors can, and he is not seeing it. If he can't see Practical Difficulty than he cannot support, it.

Mr. Ferguson stated he has 2 boats that are in storage somewhere else, he has 3 classic cars.

Building Official Goodloe asked what is making you push it into the side-set back?

Chairman Yaros said we talked about making it 30-ft. and that would eliminate the set-backs. For that size lot he can't support it, to give a 10-ft. side yard variance.

Mr. Ferguson answered he is fine with taking it down to 30-ft.

Chairman Yaros added you are allowed 1,400 sq. ft., if you have 1,500 sq. ft. it would be 676 sq. ft. variance. He doesn't have a problem with that if he took it back farther, so it isn't so visible from Clarkston Road.

Mr. Ferguson agreed and wants to take it farther back. Because his well is right there and wants to stay away from the well. If he must take it back, he will take it back.

Vice Chairman Durham asked if we are approaching the point where it is going to be difficult for this gentleman to think about this on the fly, and might what to think about it and coming back with everything lined up?

Chairman Yaros stated is a possibility if you would like to do that and then give us exactly where you want to put it, restack it for us.

Mr. Ferguson stated he did mark-it.

Chairman Yaros said was with the 10-ft. variance and was more forward, now you are talking about taking it farther back and you won't have the variance. If you could stack out where you want to put in now. Chairman Yaros doesn't have a problem with the 1,500-ft., he is only speaking for himself, but he doesn't have a problem with that. That is a 676 sq. ft. variance and they are allowed 1,400. It would be up to the rest of the Board Members. Chairman Yaros asked the Board Members if they think it is a good idea for him to stake that the new idea out and then come back?

Vice Chairman Durham stated then Mr. Ferguson would leave knowing and the Board would be knowing exactly what was agreed to and he would prefer to see it.

Chairman Yaros asked Mr. Ferguson what he thought?

Mr. Ferguson stated he can come back.

Chairman Yaros asked are you willing to come back.

Mr. Ferguson answered sure.

Chairman Yaros asked to public if there was anyone to speak to this matter. There was not.

Trustee Flood stated that the date to come back would be May 13, 2019.

Mr. Ferguson asked if they could vote on this today?

Building Official Goodloe answered if you want 30x50, he could get you the numbers.

Mr. Ferguson stated that 30x50 is fine.

Chairman Yaros added with no side yard setback.

Mr. Ferguson replied that his fine.

Building Official Goodloe stated he would have a 676 sq. ft. variance over the 1,400 allowed then it would have a 76 sq. ft. variance over the 1,900 allowed. Did you plan on a 5 pitch or a 4 pitch? Mr. Ferguson replied a 4 pitch. Building Official Goodloe said then you would still need a height variance of 20.5 feet, and then you wouldn't need your side-yard setbacks.

Chairman Yaros asked what would be the variance for the height?

Building Official Goodloe answered 20.5 feet and that would be a 4 pitch, 30-ft. wide, floor pitch.

Chairman Yaros questioned that the height pitch was 6.5 feet and now you are saying 20 feet?

Building Official Goodloe replied, no, he is sorry 6.2 feet would be the height variance.

Secretary Koscierzynski asked what the Practical Difficulty was?

Chairman Yaros asked Mr. Ferguson what is your Practical Difficulty? That you have stuff scattered all over the place?

Mr. Ferguson answered he has stuff scattered all over and he is getting thrown out of one of the buildings, should he bring the stuff there and leave it out in the yard and get ruined? He stated his stuff is expensive and he doesn't want to leave everything out and get ruined.

Chairman Yaros said the difficulty is that you don't want it all exposed to the elements or stolen?

Mr. Ferguson replied that is correct.

Building Official Goodloe asked you didn't buy this stuff just recently?

Mr. Ferguson replied no he has old cars that will stay until the day he dies.

Chairman Yaros thought it was a good compromise.

Trustee Flood said what you must remember now is we are talking maximum floor area. If you reduce the building down to 30x50, that is going to leave you with 1,600 sq. ft. If you deduct that from the 30x64 that leaves you 1,060 sq. ft., that is dropping it. Right now, he is asking for a 1,736 you must take the 1,060 off that.

Building Official Goodloe stated that it will drop it down to 676 sq. ft. variance.

Trustee Flood said that it would be more than that.

Building Official Goodloe just 676 foot.

Chairman Yaros stated that he is allowed 1,400 and he is asking 1,500.

Trustee Flood stated that is his maximum floor area.

Chairman Yaros said the maximum floor area of detached, that is not the total accessory, the total accessory is 1,900. That is a detached accessory building, that his one building.

Trustee Flood said he is asking for a decrease of 1,060 sq. ft. if he goes to a 1,500 sq. ft. building. He is asking for a reduction of 1,060 sq. ft. off the 2,560 sq. ft.

Chairman Yaros said you need to add the 576 to the 1,500.

Building Official Goodloe said he has all the number here. On the first article he doesn't need a variance. Article number 2, is a 4.25 variance to build a pole barn 20.5 feet in height, 25-ft. away from the principal structure.

Secretary Koscierzynski questioned so a 4.5 variance above the height of the principal structure 16 ft. to build a pole barn 20.5 ft. in height. Are we eliminating to 25 feet away? Building Official Goodloe, not that still stays.

Building Official Goodloe added Article number 3, they are changing 1,736-sq. ft. to 676-sq. ft. and then changing the 2,560 sq. ft. to 1,500 sq. ft. for a total of 1,926. Article number 4, is a 176 sq. ft. variance instead of 1,236 sq. ft. for a total maximum of 1,976-sq. ft.

Secretary Koscierzynski stated in the matter of ZBA case #AB-2019-09, Marc Ferguson, 3140 W. Clarkson Road, parcel #09-08-376-008 she would move that the petitioners request for variances from zoning ordinance #78:

Article XXVII, Section 27.02 (A)(5), Building, Structures, and Uses

A 4.2 ft. variance above the height of the principal structure (16-ft.) to build a pole barn 20.5 ft. in height, 25-ft. away from the rear/side of the principal structure

Article XXVII, Section 27.02 (A)(8), Buildings, Structures, and Uses, for lot size Over 2.5 acres

A 676-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 1,500-sq. ft. pole barn in addition to the 576-sq. ft. detached garage for a total of 2,076-sq. ft. Maximum Floor Area of Detached Accessory Buildings

A 176-sq ft. variance above the allowed 1,900-sq. ft. Total Maximum Floor Area of All Accessory Building for a total maximum of 2,076-sq. ft. of all accessory buildings

Be **granted** because; 1) The petitioner has demonstrated that the following standards for variances has been met in this case, in that they have set forth which shows that the petitioner has expensive cars and other things that he needs to store if he doesn't have the space his items are going to probably get ruined. 2) The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone. For one he is on Clarkston Road and the second thing is that he has over 4 acres of property to build on and there is no one here to say anything against it. 3) The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts: He has the space to build it and he needs it to store it equipment. Secretary Koscierzynski said it would probably make the property look better, once he does something to the house. 4) Granting the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings or fact: He needs his space for his equipment, and he has the space.

Further, based on the following findings of facts, the granting this variance would not; 1) Impair an adequate supply of light and air to adjacent property. 2) Unreasonably increase the congestion in public street. 4) Increase the danger of fire or endanger the public safety. 5) Unreasonably diminish or impair established property values within the surrounding area.

Chairman Yaros stated he would support that if she would include that the petitioner agreed to keep it 20-ft side back in the forest, and that he will be building the property north of where it was staked due to

the fact that he has a well in the area. And Mr. Ferguson agreed that there is not going to be a business run out of there.

Secretary Koscierzynski said she would like to add that she is glad that he decided to modify this and work with us.

Roll call vote was as follows: Durham, no; Flood, no; Koscierzynski, yes, Yaros, yes.

Motion failed 2-2

Chairman Yaros, said we don't have a majority for it to pass, we need 3. Sorry, it didn't pass, you will have to try something else.

Mr. Ferguson asked so now what?

Chairman Yaros said to come back with a lesser variance and something that the Board Members can agree on.

Mr. Ferguson said he could cut it down more than ½.

Building Official Goodloe said that you are only 100 away.

Mr. Ferguson asked, why is it every time he comes in front of this Board, he has a problem?

Trustee Flood stated he thinks it is the first time that he has seen him.

Mr. Ferguson said no it isn't.

Trustee Flood the first time on this piece of property.

Mr. Ferguson said he has been here before.

Trustee Flood asked on this piece of property?

Mr. Ferguson replied no he just purchased this property.

Trustee Flood stated he judges properties, each case by itself, but he doesn't owe any explanation, he explained to him what he thought, to put the barn further back on the 5 acres.

Chairman Yaros said it is over we have voted and if you would like to come back with something less, maybe talk to the Building Department, they might have some direction for you.

Trustee Flood said he has another alternative too, go to Circuit Court and appeal this decision.

Mr. Ferguson said he knows that he could go to Circuit Court.

Trustee Flood stated that he is just telling him the statues.

Mr. Ferguson said he knows he can go to Circuit Court. Everybody else has that has come in-front of this Board, but you guys don't care that is the problem.

Trustee Flood stated that he represents 40,000 residents in this community, and we go by the ordinances.

Chairman Yaros said we can't argue that point right now.

Mr. Ferguson said exactly.

Chairman Yaros said we must go to the next case.

AB-2019-10, Dana & Brian Miller, 67 Chamberlain St., parcel #09-03-452-034

Chairman Yaros read the petitioner's request as follows:

Article VI, Section 6.04, zone R-3:

- 1.) A 21.08-ft. front yard setback variance, from the required 30-ft. front yard setback, to add a porch to a home 8.92-ft. from the front property line
- 2.) A 3.12-ft side yard setback variance, from the required 10-ft. side yard setback, to build a deck 6.88-ft. from the side yard property line (east)
- 3.) An 8.95% lot coverage variance, above the allowed 25% maximum lot coverage, for a total lot coverage of 33.95%

Article XXVII, Section 27.02(A)(8):

- 4.) A 3.4% variance above the allowed 75% of the principal structure, to add an attached garage addition of 951-sq. ft

Brian Miller, 67 Chamberlain St. presented,

Mr. Miller started by saying they are drastically improving the conditions that are currently there now. They purchased the home back in September, the home was built in 1910, and zoned under previous ordinances. Currently the garage as it sits is over the property line, well into the right-of-way of the road. They feel it does present a safety issue as it is right now. They are proposing to improve the conditions of entire property, by removing the garage, removing a breeze way. They would be relocating the garage within the property lines, over on the west side of the property. It would be less of a lot of coverage, less than variances, based on properties around the lake. It is a modest addition, they are not looking at a 5,000 sq. ft. home, they are looking at a 2,500 sq. ft. home. Where the garage is, they are adding living space above that. They are drastically improving the conditions of the current property and increasing the value.

Chairman Yaros stated they are lessening the non-conformity, because part of the garage is currently in the right-of-way, so that is a plus. The question he has is why do you need the variance over on the west side where the stairs are? On the east side.

Mr. Miller replied they are not doing anything different than what is there now. They have an existing deck there with existing stairs coming down. Adding to the house on the east side is essentially the same condition that we have right now.

Chairman Yaros said they are asking for a 3.12-ft side yard setback variance, from the required 10-ft. side yard setback, to build a deck 6.88-ft. from the side yard property line on the east side.

Mr. Miller stated that is what they have right now.

Chairman Yaros asked that is existing?

Mr. Miller said they are looking to add on to the house building out towards the lake, so they are redoing the deck, but it is the same position it is in right now.

Chairman Yaros asked if they were going any closer to the neighbor?

Mr. Miller replied if it is only inches, but they are more than happy to stay within the existing extent right now. They are not adding on to the house on that side.

Chairman Yaros questioned the purpose of the size of the garage, 951 sq. ft. is a large garage, what is the need to have such a large garage.

Mr. Miller stated it is not as much of the garage as it is the living space. It is a master bedroom and bathroom above the garage space. They have 6 children and they want to have room for them. They are trying to squeeze them into a 2,500-2,600 sq. ft. home.

Trustee Flood asked how many years have you owned the house?

Mr. Miller stated that they just purchased the home in September and has been a resident for almost 22 years.

Vice Chairman Durham asked where the Mini Cooper is located, is that piece is coming off?

Mr. Miller replied, yes, the entire garage plus the breeze-way.

Trustee Flood said and then you are going to put a front porch on that section?

Mr. Miller replied a very modest porch yes.

Vice Chairman Durham questioned, and in is his opinion the footprint on the east side is not going to change, where the stairs are going up?

Mr. Miller answered yes.

Vice Chairman Durham said it may have been preexisting non-conformity before this, and you must come for a variance now because you are under these rules?

Mr. Miller said that is correct.

Vice Chairman Durham asked when you come around the little hook where you can pull in, you have cement there next to the house, there is a little room up there, what is that?

Mr. Miller said it is a shed, so that would be demolished.

Vice Chairman Durham asked how does your neighbor feel about this project?

Mr. Miller stated that they are fully supportive of it. Mike and Connie on the west side of their property are very supportive and Ron and Amy on the east side also.

Vice Chairman Durham asked about the big pine tree in the back, will you have to take that out?

Mr. Miller said yes, it is right in the middle of the addition.

Secretary Koscierynski asked to read a letter from Ron Lovell, 57 Chamberlain in Orion. Dana and Brian Miller have revealed their building plans and they support their proposed construction. They did not have an issue with the variances, letter dated April 3, 2019.

Mr. Miller said that is their neighbor to the east.

Chairman Yaros asked if there was anyone here to speak to this matter.

Vice Chairman Durham asked when was the original house built?

Mr. Miller stated the house was built in 1910, the garage was added on in the 1970's.

Moved by Vice Chairman Durham, seconded by Chairman Yaros. stated that in the ZBA case #AB-2019-10, Dana and Brian Miller, 67 Chamberlain St., parcel #09-03-452-034, moved the petitioners request from ordinance 78, Article VI, Section 6.04, zoned R-3. 1) A 21.08-ft. front yard setback variance, from the required 30-ft. front yard setback, to add a porch to a home 8.92-ft. from the front property line. 2) 3.12-ft. side yard setback variance, from the required 10-ft. side yard setback, to build a deck 6.88-ft. from the side yard party line to the east. 3) An 8.95% lot coverage variance, about the allowed 25% maximum lot coverage, for a total lot coverage of 33.95%. Article, XXVII, Section 27.02(A)(8) 4) A 3.4% variance above the allowed 75% of the principal structure, to add an attached garage addition of 951-sq. ft. be **granted**, because the petitioner did demonstrate that the following standards for variances have been met. Petitioner does show that the following Practical Difficulty has been met in this case, be that the fact that he is improving a home that is over 100 years old. The houses in that area are small and shoehorned in, he is taking steps to lessen the non-conformity by moving it out of the road right-of-way. The variance for the stairway on the east is only necessary because when it was built there were either no variances or they were not paid attention to and now he is using the same footprint to accomplish the same purpose. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone. It is a small piece of property, oddly shaped on a lake that was occupied by a small house, they want to make it a more habitable house improve the area and add to their enjoyment in living there on the lake. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone. For reasons previously stated, the granting of the variance will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district. It will not impair an adequate supply of light and air to adjacent property. Neighbors do appear to be on board with this, we have a letter from the neighbor to the east, which states they are in favor of what they are trying to do. They will not unreasonably increase the congestion in public streets. They will be making them better and not worse. It will not increase the danger of fire or public safety or unreasonably diminish or impair established property values to the surrounding area. This is a double frontage lot with its own restrictions, and it is a lessening of the non-conformance.

Roll call vote was as follows: Durham, yes; Flood, yes, Koscierzynski, yes; Yaros, yes.

Motion carried 4-0

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

A. Memo from Planning & Zoning Coordinator Harrison regarding Item Postponement Dates

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

Trustee Flood stated that there was a Joint Board of Trustees, Planning Commission and Zoning Board of Appeals meeting this Wednesday, at 7pm in the Board Room. Also Saturday they have the start of their North Oakland Household Hazardous Waste Collection, in Oxford Middle School off Lakeville Rd. and starts at 8am.

10. ADJOURNMENT

Moved by Secretary Koscierzynski, seconded by Chairman Yaros to adjourn the meeting at 7:53pm.

Motion Carried

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

4/22/19

Zoning Board of Appeals Approval