

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY JUNE 10, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 10, 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
Don Walker, PC Rep to ZBA
Mike Flood, BOT Rep to ZBA

Lucy Koscierszynski, Board Member

ZBA MEMBER ABSENT:

None

CONSULTANT PRESENT:

None

OTHERS PRESENT:

Rebecca Graham	Arleen Kesselring
Tim Graham	Robert Otterstetter
Marvin DeLaura	Lisa Johnson
Dan Ankersen	Matt Dunaskiss
Jerry Richards	Justin Dunaskiss
Mark Davis	Geri Fletcher
Kim Davis	Mark Fletcher
Mike Riddle	Barbara Goodman
Cortney Haney	Debra Walton
Barry Young	Sandra Young

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

05-13-2019, Regular Meeting Minutes

Moved by Vice Chairman Koscierszynski, seconded by Commissioner Walker, to approve the 05-28-2019, Regular Meeting minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2019-14, Marvin DeLaura, 3760 Bald Mountain Rd. 09-26-430-015 (Postponed from 5/13/19 mtg)

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 3 variances from Ordinance No. 78:

Article XXVII, Section 27.05 (H)(2)

1. A 0-ft. side yard setback (north) from the required 10-ft. side yard setback to erect a 6-ft. privacy fence on the lot line.
2. A 0-ft. rear yard setback (west) from the required 10-ft. rear yard setback to erect a 6-ft. privacy fence on the lot line.

Article VI Section 6.04, Zoned R-1:

3. A 3-ft. variance from the required 10-ft. side yard setback (north) to build an addition to an existing house 7-ft. from the lot line (current distance from lot line to house is 15-ft.)

Mr. Marvin DeLaura, 3760 Bald Mountain Rd., the applicant, presented.

Chairman Yaros asked if he had determined if they were going to do the addition.

Mr. DeLaura replied that they would like to petition for the variance in the event that they do the addition, so he would still like to request that variance.

Chairman Yaros questioned they are going to do the addition?

Mr. DeLaura said yes.

Chairman Yaros stated that they went out and saw their stakes. The arborvitaes are on their side but they are growing to the north. In order to put the fence up there they will basically be cutting those back.

Mr. DeLaura answered that he will have to cut them back a little bit if they go all the way down. They are about 3-ft into the lot line.

Chairman Yaros said looking from his house you can't see through all those arborvitaes only at the back corner of their back yard; and that was where a tree was trimmed?

Mr. DeLaura answered yes that was where the 60-ft. pine was trimmed up by his neighbor.

Chairman Yaros replied that is really the only spot where you can see through.

Mr. DeLaura stated that is his main concern, he wants to put it there he would like to have a continuation in the front to secure the front.

Chairman Yaros replied that he doesn't see how anyone can get through those arborvitaes.

Mr. DeLaura stated no in front of the arborvitaes, from the end of the arborvitae towards Bald Mountain Rd.

Chairman Yaros said that they can't go past their house.

Mr. DeLaura replied no up to the house, not ending before the front of the house.

Chairman Yaros asked so that is their request?

Mr. DeLaura replied yes.

Mr. DeLaura said in follow up from when they were there last, they got the survey done, they should have that.

Chairman Yaros replied they do have the survey.

Mr. DeLaura stated that he also has approval from the High Hills Subdivision. He has a copy of that as well.

Chairman Yaros said they don't have it.

Mr. DeLaura responded that he has it in email form.

Chairman Yaros asked to see the approval from the High Hills Subdivision.

Chairman Yaros inquired if they could keep that for the records?

Mr. DeLaura answered yes.

Chairman Yaros read the approval letter from High Hills Subdivision as follows: "The Board met on Thursday night to discuss your fence variance request, we are comfortable approving the variance assuming the following, setback rules need to be adhered to, see Township Ordinance for details. Township approval we received a notice of his hearing on 5/13/19. He will do his best to represent the subdivision".

Chairman Yaros stated the Board met on Thursday, it says they are comfortable approving the variances assuming the following setback rules need to be adhered to. He wasn't sure if that exactly answers his questions. The setback rules are that they have to be 10-ft.

Mr. DeLaura replied that he felt they were referring to if they approve the variance, they were ok with that.

Mr. DeLaura said that they got the survey; when they were there last time there were there Mr. Otterstetter came up after him and said some things. He mentioned that the arborvitaes were over the lot line, and they are not, they are about 3-ft. over. He said that his fence is about 5-ft. inside the lot line, it is actually 4-ft. He said his house was 20-ft. from his and it is probably closer to 40-ft., which he didn't measure, but was his best estimate. His house is 15-ft. from the lot line exactly, beyond the lot line his fence is 4-ft. in; from the side of his house to the fence is 19-ft. There was something else said about the neighbor to his west, Felix, that he never talked to him about putting that fence up, the one that he is requesting a variance on as well, because he wasn't aware that he needed a variance when he put that in.

Chairman Yaros questioned how long that has been up?

Mr. DeLaura answered he doesn't know exactly, 3, 4, 5 years, probably closer to 5 years. He said he did speak to him before he put that up and he said no problem, he talked to him again last week after the survey because they are encroaching on his property by 3 or 4 inches and he said no problem. He offered to move the fence if it was approved, he said don't move it leave it right where it is at it is fine. In addition to some of the reasons why he gave them for the fence the privacy issue the sight issue, there is also dogs that are constantly barking when he approaches the fence when he gets anywhere near his shed, there are two or three dogs coming at the fence barking at him, and that is at the back of the house and also at the front of the house where he wants to extend. He identified about 10 homes in his neighborhood that has 6-ft. fences on the lot line. He would not put his fence on the lot line he would put it just inside the lot line so it is completely on his property.

Chairman Yaros stated that they look at each case individually some of those have pools which they have to have a fence.

Mr. DeLaura replied they don't have a 6-ft. fence?

Chairman Yaros answered a 6-ft. fence because of a pool to keep neighbors from jumping in and for the safety factors.

Vice Chairman Durham said he knows that he has heard all of this before, so a lot of this is just going to be repetition. The words practical difficulty was probably mentioned the last time. He can certainly get behind the practical difficulty for the variance for the addition. They have a very valid reason for putting the addition in and he could get behind any variance for the room. The fence that goes all the way up between the houses he is having a lot of trouble with. He just can't get it, he has looked at looked at the pictures, had this a week trying to figure it, and he can't figure why that far.

Mr. DeLaura asked what if he just went from the back of his arborvitaes to the back corner to connect to the other fence just to block all that mess out of the corner and leave the other side alone.

Chairman Yaros questioned from where?

Mr. DeLaura replied the arborvitaes run almost from the front of his house down that lot line. Where they end in the back is where the other tree, the 60-ft. pine tree used to cover that whole area.

Chairman Yaros asked so what would be the length of that fence?

Mr. DeLaura said that fence he didn't measure that one. Probably 20-30-ft. from that point back, probably closer to 30-ft. from there back to the corner. Much like the other fence it goes to the corner over to a large bush and it stops there.

Chairman Yaros stated that personally he has no problem with the fence to the west, because it has been there it doesn't seem to pose a problem with his neighbor. This one here 20-ft. from the west to the east is what he is asking.

Mr. DeLaura replied from the current fence that is there which is on the west lot line in that corner traveling east to the arborvitaes, and then not going behind those arborvitaes as they have requested, he not do.

Chairman Yaros said to him that makes more sense.

Mr. DeLaura noted that his fear is he is 3-ft. onto the neighbor's property and they have threatened to cut them, and he cut his tree, so he would rather cut them and trim them right and put a fence behind it. He doesn't want an issue where somebody starts cutting away at his bushes, it is very invasive and very upsetting.

Chairman Yaros stated that he likes what he is proposing now the 20-30-ft. to reach the arborvitaes. He doesn't have a problem with that one. As far as the addition he doesn't have a problem with that.

Chairman Yaros asked Secretary Koscierny how she felt about if he just brings the 6-ft. fence 30-ft. from the west to the east to meet the arborvitaes?

Secretary Koscierny replied that would be good.

Mr. DeLaura said or 40-ft. whatever that length is up to the arborvitaes.

Chairman Yaros stated it is not that big of a distance.

Mr. DeLaura said he is not sure how far it is.

Trustee Flood echoed what Vice Chairman Durham said that he has no problem with the variance on the addition because of the health issues, he agrees with that. That long existing fence you can tell it is weathered pretty good back there, it has been there a long time on the west side. The north side he feels they should just put more shrubbery in there.

Mr. DeLaura stated that he can't do that because he has a pine tree there, and they would be growing back into the neighbor's yard again and would be down the same road, if they put them on the lot line. He has a 60-ft. pine that he can't grow shrubbery under that.

Trustee Flood noted that so his problem was it grew onto his property he trimmed his side off, correct?

Mr. DeLaura replied that he trimmed his side off, which is 4-ft. into his property and then another 4-5-ft. into his property.

Trustee Flood stated that he is not allowed to do that.

Mr. DeLaura said that is what happened.

Trustee Flood noted that him and his neighbors have an agreement that anything on their fence line on his side he can trim anything on his side he can trim.

Mr. DeLaura commented that really degrades the tree and the tree has gotten progressively worse over the last two years and it is getting more open at the bottom, it really looks bad every year it gets worse so he is going to have to trim all that stuff up anyway which is going to cause a worse problem, it is all going to be open now, he has straggly looking branches just hanging there now that are not doing anything except sucking energy from the rest of the tree.

Trustee Flood said that he has no problem with the item #2 which is the rear setback on the existing fence or item #3 on the addition, but he can't support #1 on the north side.

Board Member Walker stated it sounds to him that if he is willing to modify his request, he would have a better chance at getting this variance granted. He tends to agree with both Trustee Flood and ZBA Member Kosciuszynski and Vice Chairman Durham.

Mr. DeLaura noted that he agrees with Chairman Yaros that by modifying his request it would have a better opportunity to gain their agreement. Does he need to formally modify his request?

Chairman Yaros replied he does.

Mr. DeLaura said that he would like to formally modify his request to run the fence from the northwest corner where the current fence ends and run that down towards the east of his property just inside the property line to run up to the arborvitae and not continue it any further.

Vice Chairman Durham commented that it is his feeling that they would have to have a hard number, his number would be he would run it on the north side no further than how many feet?

Mr. DeLaura responded that he didn't take that measurement.

Vice Chairman Durham said they didn't have it either, unless Chairman Yaros has an idea?

Chairman Yaros replied that he could give them a hard number they would have to know that number. He could come up with a number.

Secretary Koscierny said right now they have a 10-ft. yard setback.

Chairman Yaros said because it is a zero-lot line, that is why.

Mr. DeLaura stated that his best estimate would be 50-ft maximum, but it is probably closer to 30-40-ft. He hesitates to give the wrong number and go beyond what they are allowing.

Vice Chairman Durham said if he gives them a number, he would just have to stop.

Mr. DeLaura asked if they could say 60-ft. or to the existing arborvitae?

Vice Chairman Durham noted that he doesn't have any feel of how far the arborvitae are from the corner.

Chairman Yaros stated that doesn't feel that they are that far, but he doesn't want to say a number because he has no idea. It was the first time he looked at it. If he wants them to vote tonight, he is going to have to have something hard.

Mr. DeLaura stated that he would like them to vote tonight, he would need to get that number for them.

Chairman Yaros asked if anyone would like to speak to this matter?

Mr. Bob Otterstetter, 3732 Bald Mountain Rd., the neighbor just to the north. Just a few points of clarity, Mr. DeLaura or his son, one of them, trimmed the bottom of his tree right at the base against it. He never touched anything on the tree as far as the base. He trimmed everything up because he turned around and put wheelbarrows, debris and everything was stored back there in his back corner. He can't see it from the tree, the neighbor to the north can see it, both the neighbors from the west can see it, but he planted his arborvitae close to the lot line, without asking and they have grown over and they are almost touching his fence. He has pictures in his phone, if he wants to have a privacy fence, he is welcome to have a privacy fence according to the bylaws that are set forth which is 10-ft. in. Mr. DeLaura used to have a chocolate lab, he used to dig his way under his fence and play with his dogs.

Chairman Yaros stated he knows that they don't get along, what he wants to know is how does he feel about the request to come from the corner to the east to the arborvitae.

Mr. Otterstetter replied that his feels is that if he wants to put a privacy fence, he can put a privacy fence inside his lot line according to the bylaws.

Chairman Yaros asked so he is against it?

Mr. Otterstetter answered yes. He could put it all the way inside of his arborvitae. He pays his taxes he pays for his property to be cut his lawn service can't even cut in between the fence now. He doesn't go to the DeLaura's. He does have dogs, he had dogs when he moved into the house 28 years ago. He talked to the owner of the property there was a 5-ft. chain-linked fence so that his dogs don't get out or go anywhere. His dogs don't go anywhere they are just at their house and their home, they are part of their family. They have never gone after anyone or harmed anybody.

Vice Chairman Durham said that maybe this is completely improper and out of order and everything else, this gentleman needs to give them a number. They have a clogged agenda behind them. He doesn't live that far away, is it possible that he could go home and throw a tape on it and come back at the end of the agenda for a vote?

Chairman Yaros replied that they could postpone it to the end.

Chairman Yaros asked Mr. DeLaura if he could go get a measurement of what his request is. Otherwise, what they could do, they could make it into three different motions, one for a fence on the west side and one for a fence on the north side, and one for the addition and the fence is already there on the west side. They could break it up if they want.

Vice Chairman Durham noted he would not to complicate it any more than necessary.

Trustee Flood noted especially the way it was posted it is all posted as one.

Mr. DeLaura replied based on google earth, 36-ft. would cover it. It is probably closer to 30-ft. but 36-ft. would be a safer number.

Chairman Yaros said so the request is for the side a 0-side yard setback on the north side from the northwest corner of the lot east, 36-ft. That is for the first one, then the second one is what it is, along the lot line on the west side and then a 10-ft. yard setback to build an addition to an existing 7-ft. from the lot line.

Moved by Secretary Koscierynski, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-14, Marvin DeLaura, 3760 Bald Mountain Rd. 09-26-430-015, the petitioners request for variances Zoning Ordinance No. 78: Article XXVII, Section 27.05 (H)(2): 1) A 0-ft. side yard setback (north) from the required NW corner, east 36-ft side yard setback to erect a 6-ft. privacy fence on the lot line, 2) 0-ft. rear yard setback west from the required 10-ft. rear yard setback to erect a 6-ft. privacy fence on the lot line, Article VI Section 6.04, Zoned R-1, 3) A 3-ft. variance from the required 10-ft. side yard setback north to build an addition to an existing house 7-ft. from the lot line, current distance from the lot line to the house is 15-ft., be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case the petitioner does show Practical Difficulty due to the unique circumstances of the property and not related to general conditions of the area: the number one Practical Difficulty is for the addition is due to medical reasons and the other Practical Difficulty is privacy; the petitioner has also worked with them twice; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not generally apply to other properties in the same zone or district: the extraordinary circumstances are the medical issues required for a bedroom and bathroom on the same floor; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone or vicinity based on the following facts: the fence is for privacy issues; granting of the variance or modification will not materially be detrimental to the public welfare, materially injurious to the property or to improvements in such zone or district in which the property is located base on the following findings for facts: they were all out there twice and none of this is materially detrimental it is just a matter of privacy and medical issues; further, based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent property; it does not unreasonably increase the congestion in public streets; it doesn't increase the danger of fire or endanger public safety: the fence is not going to be a problem here; unreasonably diminish or impair established property values within the surrounding area: other people in that neighborhood have a fence; or, in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants or the Township.

Chairman Yaros just to clarify the 0-ft. side yard setback on the north property line from the northwest corner east 36-ft. 36 linear feet only.

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

Motion Carried 3-2

B. AB-2019-20, Thomas & Kelly Herron, 670 Ferndale Ave., 09-11-310-002

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 3 variances from Zoning Ordinance No. 78:

Article VI, Section 6.04, Zoned R-3; Article XXVII, Section 27.02 (A)(4); Article XXVII, Section 27.05 (H)(2):

- 1.) A 10-ft. side yard setback variance from the required 10-ft. side yard setback to erect a 6-ft. fence 0-ft. from the side property line south side.
- 2.) A 10-ft. rear yard setback variance from the required 10-ft. rear yard setback to erect a 6-ft. fence 0-ft. from the rear property line on the west side.

Article VI, Section 6.04, Zoned R-3; Article XXVII, Section 27.02 (A)(4)

- 3.) A 5-ft. rear yard setback variance, from the require 10-ft. rear yard setback, to erect a shed 5-ft. from the rear property line on the west side.

Ms. Kelly Herron, 670 Ferndale Ave., the petitioner, presented.

Chairman Yaros asked why does she need this, what is the hardship?

Ms. Herron stated that first and foremost there is an existing fence on the south property line that is chain-link and on the back of property line there was a fence that was taken down in 2008. They have a small dog and grandchildren and they are looking on how to corral them just a little bit and discourage them walking into Mr. Kings yard.

Trustee Flood asked who owns the chain-link fence?

Ms. Herron replied that is a great question, she has no idea. Cortney?

Trustee Flood said if you travel around a lot you will see where 4-ft. chain-link fence about a foot opening, a 6-8-ft. privacy fence they have like a no-man land in between and weeds and stuff are going up in between it.

Ms. Herron replied that she didn't believe that it was theirs. The chain-link fences meet in the corner there isn't any space.

Chairman Yaros asked if the chain-link fence was staying up?

Ms. Herron responded that she didn't know that is a great question. She is not wetted to the chain-link fence but as far as she was concerned it was Cortney's fence so she wasn't taking Cortney's fence down.

Trustee Flood stated that if the chain-link fence is already on the lot line and then she wants to put her fence on the lot line, then they would be more or less side by side then correct?

Ms. Herron answered that is what she was anticipating doing she wasn't going to mess with their fence, because she doesn't know who owns it.

Trustee Flood said on the north side they have all the woods there.

Chairman Yaros said and that is on an angle, right?

Ms. Herron replied that is at an angle.

Trustee Flood asked if the shed was going on an existing concrete pad they have in the back.

Ms. Herron answered that is the goal is to build that out so it could go there, it used to have a shed.

Chairman Yaros questioned so that is the location then?

Ms. Herron replied yes, she only had flamingos she didn't have stakes.

Vice Chairman Durham questioned why 6-ft. on the fence?

Ms. Herron responded that they have been looking at them for 2-years and it is in their budget and it is reasonable and they can get them in the right materials.

Vice Chairman Durham said a 6-ft. is better than a 4-ft. because?

Ms. Herron answered for privacy and containment of their dogs and children. Also, with the cost associated and the variety and the materials, there are far more options with a 6-ft. fence than the 4-ft. fence, and she doesn't want the loopy fence things, her dog will jump right over that.

Board Member Walker questioned what kind of dog do they have?

Ms. Herron replied that they have a Miniature Schnauzer, he is 1 year old.

Board Member Walker said so you have had him for a year; have you ever had a dog before this dog?

Ms. Herron said she did and he would roll down the gully quite often so that natural wood barrier doesn't work for him, and he wandered into Mr. Kings yard quite often, so god willing they will have this dog for a long time and they don't want to be cleaning up poop in Mr. Kings yard anymore.

Secretary Kosciuszynski asked so the dog goes in their neighbor's yard?

Ms. Herron answered yes, he has at tie-out but she also at times just walk him out herself and she is trying to train him but he is 1-yr.

Secretary Kosciuszynski stated that Schnauzers are Terriers and they have a mind of their own.

Chairman Yaros noted what he can't find is how long is the fence going to be because generally they don't allow to go beyond the front of the house.

Ms. Herron said oh at all?

Chairman Yaros stated that he doesn't see a dimension?

Ms. Herron said that it is 75-ft. from the back corner and it is past the front of the house, but it is 25-ft. from the road.

Chairman Yaros questioned it is past the front of the house?

Ms. Herron replied that it is just past the front porch.

Chairman Yaros stated that generally they don't allow them beyond the front porch.

Ms. Herron asked if they said 50-ft. that would be reasonable? It is literally 100-ft. from that back corner to their property line. Their property line is actually 10-ft. into their front yard.

Chairman Yaros noted on the gravel roads the don't know where half the roads are. Those were all private at one time and then they were given over to the county and at the time no one really knew where the road was.

Trustee Flood stated that was his concern also, so that would be on the south side of the house. It would have to start at the front of the house and go back west, correct? It would not could not intrude any further in the front of the house, correct?

Chairman Yaros replied yes, the chain-link fence does.

Trustee Flood said that the chain-link fence is allowed.

Chairman Yaros said that he agrees it would be on the west and it would also be on the north side only even with the house.

Ms. Herron stated on the north side they don't have a road or any people on the other side.

Trustee Flood added there was no request for the north because that is all woods.

Chairman Yaros said so it is just the south and the west.

Trustee Flood noted the west is the back and the south would be the side.

Chairman Yaros stated that it would be from the side of the house to the west corner.

Ms. Courtney Haney, 682 Ferndale Ave., which is the direct southside property, the one with the existing fence. The two things that she wanted to bring up, because she went and looked at the plans in the office and she just couldn't tell, they have already brought up, the first being that the fence does not come past the front of the house, because the with diagram it was hard to tell if it went beyond or not. She just wanted to make sure it didn't come past the front of the house. From her front patio she has a very small lake view and didn't want the fence to come up any further. The other thing was the fence, the house came with the fence, so she wasn't sure when or who put it up, but it is very close to the lot line and her request that the existing fence along that lot line between their properties be removed before the privacy fence goes up, just because when they have a fence on a fence and that strip of grass in between and it is impossible to maintain and it is just an eyesore to have an old chain-link fence up next to a nice privacy fence.

Chairman Yaros stated that the other thing that he wanted to bring up is that the good face of the fence has to face out toward their neighbor.

Trustee Flood said the posts on the inside.

Chairman Yaros asked so they will be removing the chain-link fence then.

Ms. Herron replied yes; she just wasn't going to do it without talking to Cortney.

Trustee Flood said it could be a condition of the variance.

Chairman Yaros replied yes.

Trustee Flood stated that he is not in favor of the 6-ft. fence until they look at that Ordinance again and maybe get the Planning Commission requests from the Board of Trustees and the Planning Commission to review that because over the last couple of years, they have been getting a lot of them.

Board Member Walker added that it has been becoming very common.

Trustee Flood said they are not supposed to legislate.

Board Member Walker replied correct.

Moved by Trustee Flood, seconded by Chairman Yaros, in the matter of ZBA case #AB-2019-20, Thomas & Kelly Herron, 670 Ferndale Ave., 09-11-310-002, I would move that the petitioner's request for variances from Zoning Ordinance No. 78, Article VI, Section 6.04, Zoned R-3; Article XXVII, Section 27.02 (A)(4); Article XXVII, Section 27.05 (H)(2): 1) at the request of the petitioner and as a condition of approval a 10-ft. side yard setback variance from the required 10-ft. side yard setback to erect a 6-ft. fence 0-ft. from the side property line south starting at the front of the house running to the west. 2) a 10-ft. rear yard setback variance from the required 10-ft. rear yard setback to erect a 6-ft. fence 0-ft. from the rear property line west. Article VI, Section 6.04, Zoned R-3; Article XXVII, Section 27.02 (A)(4): 3) a 5-ft. rear yard setback variance, from the required 10-ft. rear yard setback, to erect a shed 5-ft. from the rear property line west be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the following Practical Difficulty: a small child and a dog that she would like to keep secure in their back yard and they would like to have privacy from the houses which are very extremely close in that area; 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 zoning district: they do apply to the same district there is a lot of privacy fences around there, where or not they have been put in legal or not they cannot say; the variances are 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: the neighbor next door at 682 Ferndale requested that they take down the 4-ft. fence on the south side when they do erect that 6-ft. fence, and that is a condition of the variance if they are approved; 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 their zoning district; further it will not impair supply of light and air to adjacent property due to: the agreement with the neighbor next door taking the chain-link fence down and keeping that security fence starting at the front of their house going to the rear property line; it will not increase congestion of public streets; it will not endanger fire or public: they had a letter from the Fire Marshal that says he has not significant issues with this request dated June 6, 2019, from Jeff Williams Fire Marshal; it will not diminish or impair property values; it will not impair the public health, safety, comfort, morals or welfare of the Township inhabitants.

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

Motion Carried 5-0

C. AB-2019-21, Barbara Goodman, 1269 Beach Dr., 09-16-229-035

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting two variances from Zoning Ordinance 78, Article XXVII, Section 27.01 (C)(1)(b), Lot Width 50 to 54 feet; Article XXVII, Section 27.05 (H)(2):

1. A 4-ft. side yard setback variance from the required 6-ft., for a 6-ft. fence to remain 2-ft. from the property line (east).

Article XXVII, Section 27.17 (B)

2. A 20-ft. variance, from the required 25-ft. setback for a structure to wetland, for a fence to remain 5-ft. from a wetland.

Ms. Barbara Goodman, 1269 Beach Dr., the applicant, presented.

Chairman Yaros stated that her fence was already up.

Ms. Goodman replied yes.

Chairman Yaros said and that is the whole fence that she is requesting that is already there?

Ms. Goodman answered when she put this fence up, she didn't know about the Ordinance, her ignorance got her in trouble. She doesn't care if the fence is 4-ft. or 6-ft. it didn't matter to her, she just didn't know, if she would have known she would have put the 4-ft. fence up.

Chairman Yaros said you can cut it down.

Ms. Goodman replied yes.

Chairman Yaros questioned what was the purpose of the fence?

Ms. Goodman answered the neighbor have grandchildren and she doesn't attend to them, and they run back and forth up and down the fence teasing her dog, yelling at it teasing it, yelling his name. The fence that is there now has spaces between it, so she went down there and that fence doesn't have any spaces in between it because she doesn't want these kids going threw the fence like they have been. She had to put up a privacy fence on her house because the kids are yelling up and down and her dog is barking.

Chairman Yaros stated she had one up on her deck.

Ms. Goodman replied yes because of that.

Chairman Yaros said and then up on the lot line too.

Ms. Goodman said yes. She put the privacy fence up on the other side because Mark, he is out there swearing calling her all kinds of names. Told her to shut the dog up it is always barking, and he goes off all the time. This is not one time but many times. The other reason she put up the fence, they have a dog that they don't tie up it just runs all over. It is all over the neighborhood pooping and peeing, and she is closest so it is pooping and peeing there and she had to put a fence up there.

Chairman Yaros asked what she is asking for is the 20-ft. setback variance from the lake.

Ms. Goodman replied yes and she didn't even know that yes.

Chairman Yaros stated that they can not have anything within that area.

Ms. Goodman commented that 95% of those people, it goes to the lake.

Chairman Yaros stated that he sees that the 4-ft. fence that is existing there is down to the lake.

Ms. Goodman said that is a 3-ft. fence.

Chairman Yaros noted or a 3-ft. the one that is open.

Ms. Goodman stated that was there when the original owners, Annie and Steve put that in because they had 4 bulldogs. It has space and she is afraid that it is going to get that dog running up and down and they are going to reach in there and something is going to happen.

Chairman Yaros commented that 3-ft. fence is already there, and it is within the wetland area.

Ms. Goodman said yes it goes all the way to the lake.

Secretary Kosciierzynski asked how long has this fence been up.

Ms. Goodman replied 1 month.

Secretary Kosciierzynski questioned if she had any idea, she needed a variance?

Ms. Goodman answered no.

Secretary Kosciierzynski inquired who put it up for you?

Ms. Goodman responded the guy that did her landscaping.

Secretary Kosciierzynski asked and he didn't know?

Ms. Goodman answered no.

Secretary Kosciierzynski read a letter dated June 11, 2019, this letter is addressed to the Orion Zoning Board of Appeals regarding Barbara Goodman 1219 Beach. "Mrs. Goodman has recently had a 6-ft. solid wood fence installed 1-2 feet off the property line and less than the required 25-ft. from Tommy Lake without consulting or following Orion Twp. variance regulations. I am strongly opposed to her variance appeals for the followings, reasons: the fence as stated is 6-ft. tall solid wood and totally blocks my view of the lake in that direction, I am 5' 1" tall and even if the fence were 4-ft. tall it would block my view. Additionally, there was a 3-ft. open slatted fence between Goodman's yard and her neighbors while separating the properties the fence does now block the unspoiled view of the lake. For most homeowners their home is their biggest lifetime investment. I strongly believe that my fence would hinder my ability to sell my property which includes a lot across the road from my home or decrease it's sell-price and value. The fence is literally the first thing you notice when you go down to the lake of my house. Most lots on the lake are around 50-ft. wide, the fence really takes away the open feel of the lake front".

Chairman Yaros noted that she had said that she would cut all down to 4-ft. on the lot line.

Ms. Goodman said yes where it is now 2-ft. off the lot line.

Chairman Yaros stated that there is already a fence that goes down to the lake. How far is your fence from the other fence, 2-ft.?

Ms. Goodman replied yes 2-ft.

Chairman Yaros asked how do you maintain that between the two fences?

Ms. Goodman answered weed-whacker.

Trustee Flood questioned he thought he heard her said that her landscaper installed this?

Ms. Goodman replied yes. It wasn't the landscaper it was the guy that cut the boards for the landscaping.

Trustee Flood asked so you yourself did not install the fence?

Ms. Goodman answered no.

Trustee Flood inquired someone else did it.

Ms. Goodman responded yes; he was a carpenter.

Trustee Flood asked so he didn't try to pull a permit, because if they would have tried to pull a permit like they should have, they would have found out from the Building Department that they couldn't put this fence up for you.

Ms. Goodman answered again you would have talk to Dave about that, she didn't know. All she knew that she didn't know and she would have put a 4-ft. fence up there, it would have been cheaper for her. She is afraid with that other fence there those children, there is going to be a problem there. She has lived there for 30-ysr. and never had a problem with a neighbor.

Chairman Yaros stated that if in fact she cut that fence down to 4-ft. other than the 20-ft. setback from the wetland part, she wouldn't need a variance because she is allowed to have the 4-ft. on the other part.

Trustee Flood noted if you see how that fence is constructed with the support timbers, they are going to have redo all that fence.

Ms. Goodman said he knows that they had already talked about it.

Vice Chairman Durham added with a permit this time.

Ms. Goodman replied yes.

Trustee Flood commented that he had to agree with them on the 25-ft. setback from the lake property.

Chairman Yaros said they already have a fence that goes down there.

Trustee Flood noted that it is not a solid privacy fence it is just a 3-ft. picket fence. They never want to block a lakeview off from anybody. The same would be for Ms. Goodman too, if the neighbor did it to her and lost her sight, she wouldn't want to see that either.

Ms. Goodman stated she is just going on record here if something happens between this dog and those children, she tried to stop this. She didn't want to create a problem, she thought she was solving a

problem. These kids are not attended to and they are running back and forth, and that is why she didn't want any slats in between there. She is talking 50-ft.

Trustee Flood asked out by the road who's is that, is that your little 4-ft. fence right there?

Ms. Goodman replied yes.

Trustee Flood noted that is a very attractive fence he likes that.

Ms. Goodman said that is what he is going to do there.

Trustee Flood questioned that is your fence?

Ms. Goodman answered yes; because the dog, they don't tie it up it just runs all over.

Trustee Flood inquired and that is a 4-ft. fence, too right?

Ms. Goodman said yes, she learned she didn't know.

Trustee Flood said and 4-ft. is allowable.

Chairman Yaros noted the only difference is, she would still need the variance. If she kept the fence back 25-ft. from the wetland, she wouldn't even be here if she cut down to 4-ft. If she cut it down to 4-ft. the only variance request would be is the 20-ft. variance from the required 25-ft. from the structure to the wetland.

Vice Chairman Durham questioned the solid stockade, even 4-ft. tall will obstruct vision down the lakefront.

Ms. Goodman replied it doesn't even go down to the lake right now, the small fence does, hers is probably 3-4-ft. back. It doesn't even go down to the water.

Chairman Yaros stated he knows that they are asked for a 20-ft. from the 25-ft., so he assumes it is 5-ft. from the water.

Ms. Goodman replied yes.

Vice Chairman Durham asked they are talking about some fairly significant issues here, have there been any police involvement?

Ms. Goodman replied that is what she wants to put on record here, she was told that if he goes off on her again and it is all the time, to go in the house and call the police, he cannot do this. He calls her everything.

Vice Chairman Durham questioned so up to now there hasn't been anything?

Ms. Goodman answered no she learned this from the Township, go in the house and call the police. That is one of the reasons that she put the fence in up on the house, to shut them up.

Vice Chairman Durham stated there are limits to the number of dogs that folks can have.

Ms. Goodman said she has one dog.

Vice Chairman Durham stated that he wasn't talking about her. There are limits that people have to work with, if someone is beyond the limit, they have Ordinance Enforcement people that can go out and handle that. He kind of get the sense that this Board is asked to be a referee in a neighborhood dispute and he personally doesn't care to be put in that position, that is why he is hoping that there had been a paper trail established with this, but not yet.

Ms. Goodman added there will be.

Mr. Mark Davis 1261 Beach Dr., commented that he is the gentleman that owns the other fence. He just wanted to clarify is there a way for Ms. Goodman to maintain either the front or the back side of the fence, she has left herself no access, so there is zero way to maintain these 2-ft. strips between her lot and his lot. He just wishes that the Board would require her to comply and put these fences if they are able to put up a 4-ft., he just requests that they require her to put it on the property line. There was an established fence there before the owners that he purchased the home from built, they owned the property for more than 25-yrs. He grew up in the neighborhood it has been there for probably over 40-yrs. He extended that 3-ft. picket fence just down to the lakes edge, he kept his post back 5-ft. from the wetlands in accordance with the ordinance. He cantered the fence out to the edge of his break-wall which is now under water because they have beaver problems. They were there, they were building the fence down to the lake; Ms. Goodman even gave them \$300 towards the construction of that fence. He put a man-gate in there on both sides of the fence so they could maintain foot traffic between the yards and allow the kids to go fishing or whatever. As far as her accusations of their grandkids, their grandkids are over their house a couple of times a year, summertime, they live up in Hadley, they have four grandkids they are young, they come and play and they run up and down. He has no recollection of them harassing her dog at all; yes, they run up and down the stairs, and yes, they are loud, laughing and giggling as young kids do, they are from 12-yrs. old, down to 5-yrs. old so they do what kids do, they go out and have fun. He does recognize it upsets her dog Ollie, but she always has the dog on a cable it doesn't run free in her yard typically, very few times. The reason he put his fence down to the waters edge is to try to contain his dog, he has plans to finish the front of his fence around the perimeter of his driveway to seal it off, because he does admit that she has gone over on her front yard on the street and has done her business but they try to do the best they can to pick that up. She has said that also she built this 4-ft. fence by the road, he agreed they did a pretty nice job on that one, it looks nice but just like Trustee Flood has stated typically you put the pretty side toward your neighbors and put the posts on your side, in this case she put the pretty side on her side; and then putting it 2-ft. off the property line and again she has no way to maintain either the front or the back of that property. If the Board is going to allow her to leave this 2-ft. off the property line then he would like to know how he could go about claiming that 2-ft. strip of land so he can maintain that as his own. He requests that the Board reject her request for a variance on this fence.

Board Member Walker questioned Mr. Davis if he is the one that extended the other fence to the lakeshore?

Mr. Davis replied yes; he extended the existing fence down there toward the shore.

Board Member Walker asked if he got a permit to do that?

Mr. Davis said that he did not; he read the ordinance and from what he understood if it is less than 4-ft. and on the property line and kept it 5-ft. away from the wetlands he could install that without a permit.

Chairman Yaros said that no structures are allowed within 25-ft. of a wetland, according to the ordinance.

Mr. Davis noted that he wasn't aware of that. The original fence did cut off short of at the top of his yard where his steps are when he first moved in there, it was decrepit being a lakefront they wanted to have

the open access to the lake. He extended it down and spoke with both the neighbors, Ms. Goodman even chipped in on that and that has been in place for over two years now.

Vice Chairman Durham stated that he gets the sense that not all is well on his street amongst the neighbors.

Mr. Davis replied for the most part they are but yes there is some animosity for sure.

Vice Chairman Durham said that yourself and the lady both are of the age they are certain that they know that their future and happiness is best held in your own hands, not shoved off to anyone else, not the police not the ordinance man, not them.

Mr. Davis stated 100% agreed.

Vice Chairman Durham stated it would be absolutely in their best interest to figure this out if they can. They have a case here tonight that they are going to have to figure out, but going forward it is going to have to be up to them, it is always better if you can handle your own business because when other people come in you almost always dislike it.

Mr. Davis replied in that regard he felt that they would have done that but she just built the fence so they didn't have any other option. He called the Township because she just went and built the fence.

Ms. Arleen Kesselring, 1277 Beach Dr., stated that she was the one that submitted the letter and pictures for them to view. Ms. Goodman did build that 6-ft. fence and as she stated in her letter and as they can see from those pictures it really hinders her view of the lake. When she walks down her stairs and she turn's in that direction; she is 5' 1" she can't see over that fence. If they make her go down to 4-ft., what if she decides to sit in a chair or sit on the lawn and would want to look out on the lake, which she pays taxes for, she can't see her lakeview. This is really detracting from the value of her home, if she wanted to sell her home that is a direct eyesore. Why doesn't the fence get moved back 25-ft. as per the ordinance then possibly she would have some sort of a view of the lake if it is 25-ft. back.

Chairman Yaros noted that the ordinance states that lot enclosures, fences and walls used to enclose shall be no higher than 4-ft. in height and shall be located on the lot line. She could locate a 4-ft. fence on the lot line and not be here; but only within 25-ft. of the lake.

Ms. Kesselring stated she would at least have to put it 25-ft. back.

Chairman Yaros replied correct.

Ms. Kesselring said if they want to follow the ordinance's she was ok with that. How does that help her if she puts up a 4-ft. fence, 25-ft. back, she will at least have a view, she would like not to see a fence all the way down to the water like that.

Chairman Yaros stated that he totally understands that is why you buy lake property.

Ms. Kesselring replied right.

Mr. Barry Young, 1301 Beach Dr., said he is a neighbor a couple house's down. He came to get clarifications on some things. Front yards, he is kind of confused, how do you differentiate front and back on the lake, because when he bought and realtor that was there said "hey look at your lake frontage this is your front yard and this is your backyard. What he understood from the conversations earlier is that there are different rules for front and back yards; is that correct?

Chairman Yaros replied they should have said roadside.

Mr. Young said that is why they buy "lake front" property. He understands 25-ft. from the water, which makes sense; the 4-ft. fence, the fence that is up there now is a wooden fence, if it was cut down to 4-ft. do you still have to turn it around and put the good side out?

Chairman Yaros answered yes.

Mr. Young asked ok and if it was on the lot line it would be ok at 4-ft. even though it was a solid fence?

Chairman Yaros replied it has to be on the lot line.

Chairman Yaros questioned the request, if she would cut it down to 4-ft. she would basically have to rebuild the fence, because you have to have the finished side facing their neighbor and not toward them. According to the ordinance if you are not granted a variance, they would have to put it on the lot line.

Ms. Kesselring said that it is brand new, he has already dug the whole and it is cemented in because it is by the water. He is going to have to dig that up and put it over there.

Chairman Yaros stated that he doesn't believe that they have ever allowed a fence on a lakeside closer than the 25-ft. from the water.

Secretary Kosciuszynski stated that the gentleman on this Board probably know this already, she is not a big proponent of people doing things to their house without getting permits or at least investigating. She doesn't like it she thinks it is really bad with relationships with neighbors and all that.

Trustee Flood stated that he wants clarification, if they want to put in a 4-ft. fence in they don't have to go to the ZBA for that. If they have to meet the setback requirements, that is a code enforcement violation they will have to be addressed by them, correct?

Chairman Yaros answered that is correct.

Trustee Flood noted that there is really no variance here to approve.

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-21 Barbara Goodman, 1269 Beach Dr., 09-16-229-035, the applicant is requesting two variances from Zoning Ordinance No. 78, Article XXVII, Section 27.01 (C)(1)(b), Lot Width 50 to 54 feet: Article XXVII, Section 27.05(H)(2) 1) a 4-ft. side yard setback variance from the required 6-ft. for a 6-ft. fence to remain 2-ft. from the property line (east). Article XXVII, Section 27.17 (B) 2) a 20-ft. variance, from the required 25-ft. setback for a structure to wetland, for a fence to remain 5-ft. from a wetland be **denied** because the petitioner did not demonstrate that the following standards for variances have been met in this case: there is no real Practical Difficulty, the petitioner has had the fence erected and it is always easier to come and ask for forgiveness than it is for permission; the fence under no conditions could be within 25-ft. of the lakefront, there was information given by neighbors that it impeded their view of the lakes and people buy lots on a lake to have lake views; there are no exceptional or extraordinary circumstances applicable in this case and this variance is not necessary for the preservation and enjoyment of substantial property right; it would impair an adequate supply of light and air to adjacent property and therefore he would ask that the request for a variance be denied.

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

Motion Carried 5-0

Chairman Yaros said sorry you have been denied.

Ms. Goodman asked what is denied?

Chairman Yaros stated you have to take it down.

Ms. Goodman said the whole fence?

Chairman Yaros said yes, it is illegal.

Ms. Goodman said and put up a 4-ft. fence?

Chairman Yaros noted that she could put a 4-ft. fence without coming to the Board on the lot line and 25-ft. from the lake.

Ms. Goodman asked if she is not approved then he can still keep his fence up to the lake?

Chairman Yaros replied that is up to an Ordinance Officer to look at that.

Trustee Flood said the Building Department will have to handle that.

Ms. Goodman asked what about Arleen's fence it goes right down to the lake too?

Chairman Yaros said again that is not our job.

Ms. Goodman questioned how does she do that? Will they come out? What does she have to do now?

Chairman Yaros stated call the Building Department. That is not our job they are just here to grant variances or not. You have no variances. You can build a 4-ft. fence on your lot line according to the ordinance within 25-ft. of the wetland.

Trustee Flood noted that the Building Official was not there he is at a training class for a week, Dave Goodloe.

Chairman Yaros said that she can stop into the Building Department and discuss it with Dave.

Ms. Goodman asked how does she fence her dog in now?

Chairman Yaros said again that is not what they do here they grant variances or not.

Ms. Goodman questioned who does?

Chairman Yaros asked who does what?

Ms. Goodman inquired how does she keep her dog fenced in? So, if it runs off and bits somebody it is her fault.

Trustee Flood replied yes.

Chairman Yaros said you own a dog, you have dog rights whatever that is, but that is not up to the Zoning Board to legislate that. They just grant variances or not grant variances, yours was denied. They have other cases they have to go to; talk to the Building Department if you have any further questions.

Ms. Goodman asked and for his fence and anybody else's fence that is on the line.

Chairman Yaros said talk to the Building Department.

AB-2019-22, Daniel Ankersen, 990 Pine Tree Rd., 09-10-378-036

Chairman Yaros read the petitioner's request as follows:

The petitioner's is requesting 3 variances from Zoning Ordinance No. 78: Article II: A. Front Lot Line; Article VI, Section 6.04 Zoned R-3; Article XXVII, Section 27.05 (H)(2):

- 1.) A 30-ft front yard setback variance south, from the required 30-ft. front yard setback to erect 6-ft. privacy fence 0-ft. from the lot line.

Article VI, Section 6.04 Zoned R-3; Article XXVII, Section 27.02 (A)(4); Article XXVII, Section 27.05(H)(2)

- 2.) A 10-ft. rear yard setback variance west from the required 10-ft. rear yard setback to erect a 6-ft. privacy fence 0-ft. from the lot line.

Article VI, Section 6.04 Zoned R-3: Article XXVII, Section 27.05(H)(2)

- 3.) A 10-ft. side yard setback variance north from the required 10-ft. side yard setback to erect a 6-ft. privacy fence 0-ft. from the lot line.

Mr. Daniel Ankersen 990 Pine Tree Rd., presented.

Chairman Yaros stated that number one, you have a double frontage lot, so you have two fronts, and that is one of the reasons why your request is 30-ft., instead of the normal side yard of 10-ft.

Mr. Ankersen replied yes.

Chairman Yaros added that they are on an intersection that is fairly busy.

Mr. Ankersen stated that it is very busy intersection.

Chairman Yaros said he sat there for a little bit watching all the traffic going around.

Mr. Ankersen said there is more traffic than you would think down that gravel road because of the neighborhood over there.

Vice Chairman Durham questioned why 6-ft.?

Mr. Ankersen replied two reasons, first privacy for lights going up and down the road, he has traffic going through there and he has a dog that in his last living situation there was a 4-ft. fence and it presented very little obstacle for him getting up and over it. He had a picture of him.

Vice Chairman Durham asked if they have given some thought about an underground fence?

Mr. Ankersen stated that he has tried to do the training collar and work with him that way, it doesn't happen often but if he sees a squirrel, he just goes for it.

Vice Chairman Durham said he has one at his house, he has a 90lb Lab, she will fall on her side to keep from getting close to that fence. It really works; and it preserves the site lines, but it sounds like the site line is not something they want to preserve because of the other factors.

Mr. Ankersen replied yes because of the traffic and foot traffic too

Vice Chairman Durham said that their information came through 6-ft. fence, 6-ft. fence, he thought what in the world is going on.

Chairman Yaros stated on the south side he can understand because they have all the traffic pointed right at their house that is making a turn and then coming around the corner from Pine Tree. He can see a 6-ft. fence there to block that, but the back and the other side they could easily have an electric fence to take care of that.

Mr. Ankersen noted that he spoke to his neighbor to his side and he said it was fine.

Chairman Yaros questioned he didn't see anything from anybody that was against it.

Trustee Flood asked the existing cyclone fence, you own that, because he sees all the survey tape all along the fence, that is your property?

Mr. Anderson replied that is the proposed location for the new fence.

Trustee Flood said so you own the cyclone fence then?

Mr. Anderson answered yes.

Trustee Flood stated it looks like it is on the property line, it was staked out with the surveyor's stakes. He agreed with Chairman Yaros, when he drove around the back, he has it pretty secluded off to the west side, it is wooded, he sees the problem on the front, and he doesn't like putting privacy fences out in front of the house. He was looking at the property immediately to the south, where they just put in the safety path in and tore all that landscaping out and they put the block wall up and put the dogface wood on there, because they took out all that vegetation out and that guys privacy was completely gone, so that dogface 6-ft. privacy fence was put in to block off the lights. He doesn't like putting in a fence further out but then again you have the traffic lights.

Chairman Yaros said what he is asking for is just up to the house.

Mr. Ankersen replied yes just to the front of the house.

Chairman Yaros stated that the actual backyard is what he wants the 6-ft. fence. On the south side he is just requesting where the chain-link is now, right, just from the house?

Mr. Ankersen answered the chain-link does go to the end of the property in the front but he doesn't want to go that far with the privacy fence, just the front of the house.

Trustee Flood said so you want to go to the from the front of the edge of your house then?

Mr. Ankersen replied yes.

Trustee Flood noted he could plant landscaping or pines or anything there to block off the view of the cars, put a berm in.

Vice Chairman Durham said this would count as a front too wouldn't it?

Chairman Yaros replied yes; but on the drawing, he is actually showing along the back of the house along Elm.

Mr. Ankersen approached the Board to show them the drawing.

Chairman Yaros said the drawing was showing from the back of the house along Elm. Are you just going from the back of the house?

Mr. Ankersen noted he wanted to go to the front edge of the house.

Chairman Yaros asked so that is your request?

Mr. Ankersen said yes.

Board Member Walker asked how long has he lived there?

Mr. Ankersen stated that he has not moved in yet. He purchased the home with his parents and they are in the middle of major renovations; it was a HUD home and they are making it like a new place again. He would like to do that inside and out.

Board Member Walker asked if the traffic pattern changed since the time, he looked at the house until the time he bought the house?

Mr. Ankersen replied not that he is aware of, no.

Chairman Yaros is trying to see what the hardship is for the rest of the yard, he can see it for Elm which is the south side, he is having trouble with the west and north sides. He thinks that everyone in his neighborhood has a dog, so he can't just use dogs as an example. Most of them don't have fences either, they have electric fences.

Mr. Ankersen noted that a lot of light comes through from cars passing along that road in the back, between garbage trucks and postal workers.

Chairman Yaros said he is almost 200-ft. from Walnut.

Trustee Flood said there is another lot in between. That is why he had a hard time seeing back there.

Mr. Ankersen noted there is a small section of that lot.

Trustee Flood stated almost 60-ft.

Chairman Yaros said yes; 51-ft. and he is probably 100-ft. from the front, so almost 160-ft. He knows he is getting some off of Elm. They will vote on anything that he wants them to vote on. If your request is for all 6-ft. they can vote on that.

Trustee Flood noted he concurred with Chairman Yaros.

Chairman Yaros said it is not a sight problem, that is clear, he doesn't think that he has a problem with the north neighbor. He doesn't have a neighbor problem, which is good.

Vice Chairman Durham noted that it is nice when someone comes in and makes these requests before they have done the work.

Chairman Yaros asked the petitioner what he would like to do.

Mr. Ankersen stated even if he could get the back and the one side.

Chairman Yaros questioned the west side and then the south side?

Mr. Ankersen replied yes; and if he could block off that one road in the back, the road going along the edge of his property.

Chairman Yaros noted they were talking Elm. He doesn't have a problem with that on the south side of his house. The one that he wants to modify to the front of the house instead of the back of the house. He doesn't have a problem with that one because he is getting everyone's headlights coming around the corner, he can see that, even on Pine Tree coming off of Clarkston Rd.

Secretary Kosciierzynski said that Pine Tree is a busy street.

Trustee Flood said he doesn't see the Practical Difficulty on Walnut or on the north side.

Secretary Kosciierzynski stated that she had a picture of his house and she agrees with the Board Members that he needs something to block the traffic flow and the lights. Right now, it doesn't get dark until 8:30 – 8:45PM but in a few months down the road it is going to be darker earlier.

Chairman Yaros said that they can vote on anything he wants or if he wants to alter his request just to have the south side from the front of his house to the west lot line. He can leave the requests to what he want but he doesn't know about the vote, he is not going to vote for it.

Mr. Ankersen stated that he would really prefer at least the two because if you look out the back porch, he has a road that curves around and it is at a slight angle and as people approach the back property their headlights shine in his windows. It might look like it is close to square but it is actually just enough of an angle that it lights up his house.

Chairman Yaros pulled his house up on Google Earth. He just doesn't see it, he is not in favor of the west one but if he wanted to keep that in there, that is up to him if that is his request, they will honor that.

Board Member Walker stated that he would think long and hard what to ask for.

Vice Chairman Durham asked the Chairman if he pulled this back, and rethink his position, represent it another time?

Chairman Yaros asked if he would like to postpone, if he wants to look at it?

Mr. Ankersen asked if the ordinance was strictly for the privacy fence or for a 6-ft. fence. Can he put a 6-ft. chain-link fence in the back?

Chairman Yaros replied you can put a 4-ft., you have a 4-ft., now don't you?

Mr. Ankersen answered yes.

Chairman Yaros said you can make it a 4-ft. wood, or you could back it off 10-ft. and put a 6-ft. privacy fence, 10-ft. from the property line, but that would take 10-ft. of your yard up, but they wouldn't need the Board for that.

Trustee Flood stated anything over 4-ft. high he would have to get a variance on the lot line, that is way the ordinance reads.

Mr. Ankersen said that he will take what he can get.

Chairman Yaros added if he hasn't been living there long enough really to know what kind of lights he is going to have through there.

Mr. Ankersen noted that he has been working there all throughout the nights and weekends, he is there frequently at nighttime and he does get a lot of light from there.

Mr. Dave Ankersen, Dan's Dad, said that both of them have been spending a lot of time at the house. Walnut, if they drove all the way around the house, Walnut goes around a corner and down a hill. As cars come up the hill the lights come over the horizon then they turn the corner and then they see them again when they come around the corner so they do see them. The other point he wanted to make was it is not just the cars a lot of people walk around and with a 4-ft. fence people can see over, they walk around Walnut and they come up the side there and so they can see and there is no privacy if they are sitting in the back yard there are bicycles and people. It would just be nice to have a little spot where they could be secluded and private.

Chairman Yaros said now they have privacy and then they have a dog. You can have a 4-ft. wood fence that would give you privacy 100-ft. from Walnut Rd., nobody is coming up that close. If they come down Elm, he doesn't have any problem with that.

Mr. Dave Ankersen stated that he gets it between the neighbors he agrees on that 4-ft. between the neighbors is no big deal, but the perimeter, those two sides it would be very nice to have the 6-ft. so then people couldn't see if you were out in the yard and everyone is not watching.

Chairman Yaros added they can not grant a variance unless there is a hardship. He sees the hardship on Elm.

Mr. Dave Ankersen said this is an athletic dog, this dog jumps 4-ft. it will go over a 4-ft. fence. It does go crazy if it sees a squirrel. Part of the point of buying this house was to have a yard to roam in, that they don't have to put him on a lead; he has been on a leash his whole life. That is one of the big goals of building this house is having a great back yard that has a safe fence, they don't have to worry about the dog jumping over the fence.

Chairman Yaros questioned about the other side now, on the north side.

Mr. Dave Ankersen said at least if it is yard to yard it would slow him down a over there. That was one of the motive factors about having a nice yard with a good fence that they don't have to worry about it.

Chairman Yaros said that whatever your request is they will vote on. If his request is the south and west side, they will vote on it.

Mr. Ankersen said ok let's go for that.

Chairman Yaros replied he is not for it but he is just one vote, you may get it he doesn't know. The request is for the west and the south side.

Mr. Ankersen replied yes.

Chairman Yaros said which is #1 a 30-ft. side yard setback on the south side and #2 a 10-ft. rear yard setback on the west side; then you are going to drop #3 which is the north side, is that correct?

Mr. Ankersen answered yes.

Trustee Flood said that he agrees with Elm, and he made a statement earlier for the record that he wants to go before the Board of Trustees to have the Planning Commission possibly look at the setbacks regarding these 6-ft. fences. He has always been a believer that something is better than nothing on a compromise and then hopefully down the road something will change.

Mr. Ankersen said he will just ask for the one.

Chairman Yaros asked so his request is for the 30-ft. front yard setback variance on the south side from the required 30-ft. from the front of the house to the corner.

Mr. Ankersen said yes.

Secretary Koscierynski asked if he would like to postpone this for two weeks and think about it, because she knows that he is compromising and the Board appreciates compromise but he doesn't seem like he is 100% on board with the compromise.

Mr. Ankersen replied he doesn't like it but he needs to take what he can get. Unless the outcome of the vote could change? What would change from postponing it.

Secretary Koscierynski said she didn't know she was just giving him an option.

Chairman Yaros stated that he wouldn't change by postponing it, but maybe he would have another way to look at it. The request now is the south side; he is only one vote, but he doesn't have a problem with south side. They are so far away from that road. He drove down there and had to go far to come around to come back to take a look because he wanted to look at the west side and it is so far up there that he couldn't see it to be a problem.

Moved by Vice Chairman Durham, seconded by Trustee Flood, that in the matter of ZBA case #AB-2019-22, Daniel Ankersen, 990 Pine Tree Rd., 09-10-378-036, that the petitioner's request for variance from Ordinance No. 78: Article II: A. Front Lot Line; Article VI, Section 6.04 Zoned R-3; Article XXVI, Section 27.05(H)(2) 1) A 30-ft. front yard setback on the south from the required 30-ft. front yard setback, to erect a 6-ft. privacy fence 0-ft. from line lot line to run from the front corner of the house to the back corner where the property meets the boundary going the other direction, be **granted** because the petitioner did demonstrate that the following standards for a variance has been met in this case he does show that Practical Difficulty does exist: there is a road running right next to his property and lights and people would be a problem in his back yard and the light shining in his house. The leaves are on the trees now if the lights are shining in his house now, they will really shine in the winter. A 6-ft. privacy fence would go a long way to elevate that problem; the following are exceptional or extraordinary circumstances or conditions: again most properties don't have roads running right next to them; the variance is necessary for the preservation and enjoyment of a substantial property right: to live there more comfortably; the granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to property or improvements in such zone or district in which the property is located base on the following: it should effect nobody, it should only

help the applicant by blocking the light and the sight lines of the people walking through the area; the granting of this variance would not impair any light or air; it would not unnecessarily increase congestion; no fire danger, no danger to the public safety; it would not unreasonably diminish or impair established property values; or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township: this gentleman is asking for what is a minimal request to have fairly significant impact on his quality of life.

Roll call vote was as follows: Flood, yes; Kosciuszynski, yes; Walker, yes; Durham, yes; Yaros, yes.
Motion Carried 5-0

AB-2019-23, Mike Riddle, unaddressed lot on Cushing St., 09-03-278-026

Chairman Yaros read the petitioner's request as follows:

He is requesting seven variances from Zoning Ordinance 78, Article VI, Section 6.04 Zoned R-3:

1. A 15-ft. rear yard setback variance from the required 35-ft. rear yard setback (west) to build a house 20-ft. from the lot line
2. A 15-ft. front yard setback variance from the required 30-ft. front yard setback to build a house 15-ft. from the lot line (east)

Article XXVII, Section 27.01 (C)(1)(b) Lot Width 66 to 69 feet:

3. A 2-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 7-ft. from the lot line (north)
4. A 3-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 6-ft. from the lot line (south)

Article XXVII, Section 27.03 (C)(3)(b)(iii)

5. A 9-ft. setback variance from the required 20-ft. setback for structure to shoreline of a lake, to build a deck 11-ft. from the shoreline of a lake.

Article XXVII, Section 27.17(B)

6. A 1-ft. setback variance from the required 25-ft. setback for structure to wetland, to build a house 24-ft. from the wetland (south)

Article VI, Section 6.04 Zoned R-3:

7. A 19.24% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 44.24%

Mr. Matt Dunaskiss, 535 Cushing, stated he was there with his wife Diane, his son Justin and they just wanted to take a moment before Mike's presentation to thank them for their consideration and share a tad bit of background about the property and what got them today to request these variances. The homesite and several of them might have come out and visited, it is on Cushing Street, and Cushing is a very small street with just eight other homes on it, and they are blessed to have the surrounding area that has been in his family for over 70 years, he grew up on the property, hunted it etc. To sell any of the property was a difficult decision with his family, but somewhat spurred on by his son who wants to build an adjacent homesite there in the next two to three years. He shares that with them because his wife and him keeps his home there, Justin is going to build there, they are going to look at this home each and every day that they go by. They want to do the right thing and have the right characteristics, make sure that this home is going to conform with the rest of the homes on Cushing and make it an asset; but it is a difficult site and so they realize that so they spent a lot of time with his wife and him looking at different building plans and etc., but also they spent a lot of time looking for the right builder so they were happy to have Mike Riddle who is a custom home builder that has dealt with lake property in the past on difficult sites. They appreciate their consideration and they think that these variances are very reasonable and conform with the other homes in the area.

Mr. Mike Riddle, 910 S. Ortonville Rd., Ortonville, MI, the applicant presented.

Chairman Yaros asked how big of a home is this?

Mr. Riddle replied that the house, the first-floor plan is 1,890-sq. ft., the garage is 586-sq. ft., the second floor is approximately 792-sq. ft., which brings it just under 2,500-sq. ft. of total area including the garage.

Mr. Riddle stated that one of the things that they looked at on the site, they had to deal with the depth of the lot how the cove comes in and they lose some property based on the property line being in the water versus the water line, that they need to have their setback to. Trying to build a home that conforms with the other homes on the street, he pulled up all the homes on the street and the square footages of first floor, there is a home at 495 Cushing that is 2,700 sq.-ft.; there is one at 576 Cushing that is 1,566 sq.-ft. first floor, this doesn't include garage; there is also one at 480 Cushing that is 1,646 sq.-ft. on the first floor; there is another one at 602 Cushing it is 2,023 sq.-ft. on the first floor. They tried to conform within what they believe that most of the homes adjacent to the property have, trying to build a home that will increase the value for everybody in the area. They are planning on taking the overhead lines, he has some pictures that he will identify of some pictures from the lake and from the road, trying to show what they believe are conforming with what represents a nice home for the neighborhood not over building, but building a nice home that has the features that people are looking for now, like a first floor master, nice deck, great view of the lake and considering their neighbors and trying to build a beautiful home. Some of the difficulties they are dealing with are the grades, how the road turns in there, there is not a lot of room once you put a detached or attached garage which they will see in the pictures that he has, it makes it very difficult to have a lot of room on what would be called the road-side. As they come down on this lot and go towards the lake-side trying to get what they consider not an overbuilt home on the property it brings them to the setbacks that they are asking for to allow them to have a nice home, deck and a yard still. He showed the pictures on his display. There was a blown-up picture of the lot, the adjacent four houses next door, and he took pictures of how far they are off the lot line and he felt they are right there with the neighboring homes. The other picture shows the homes on the other side, Fernhurst, the ones on the end of the road, and Cushing. They think what they are trying to do is really uniform to what is already done. They other pictures he took from the lake, across the bay looking at where the home would be. They felt it was very consistent with what was built there. The end of Cushing is already built and, in the past, there was variances granted, so they are trying to accommodate the lot and build something that will bring value to the community and to the lake, certainly make it look beautiful and trying to work with the constraints of the lots and obviously they are asking for variances.

Chairman Yaros said they are asking for a lot of variances.

Mr. Riddle replied he knows they are.

Chairman Yaros noted that his biggest problem is the lots to the north of them are larger lots. They are a lot longer and if that is the type of similar home they are trying to meet, when they talk about 44% lot coverage, he doesn't think they have ever granted 44%, it is a lot of lot coverage.

Mr. Riddle added again he doesn't know exactly but that is why he did his research on the aerials. He believes and has some information on one of the homes, but if they look (pointing to the display map) right here he would bet that it is quite a bit more than what they are asking for. This address right here which is fairly new had a number of variances and it was a tight lot and had difficulties with grades and the road also, and that address is 495 Cushing. He researched and went around and found a couple on Fernhurst that seemed to be very close. The neighbor right next door their house is fairly new also.

Chairman Yaros commented that they grant variances all the time, particularly when they look at lakefront lots, because they know that they are expensive and people want lakefront. They usually grant a 2-ft. side yard variance or maybe a 5-ft., they are not really asking for much of a side yard, he didn't really have a problem with the side yard. His problem is the lot coverage, they are covering almost 50% of this lot with the house. They got this deck that is the full width across the back that's part of the coverage and they are only going to be 11-ft. from the water, from the edge of that deck on the drawing, that is the lot.

Mr. Riddle said he agreed with him. What they are trying to do is invest in the community, into a home that he believes that will be a value for everybody. The concern is his neighboring lots have a lot more depth, that is one of their hardships is that they don't the depth. When they take a home, which he has the floor plans which he believes everyone has, by the time they actually take the home and put an entry, kitchen, laundry room and all the things you would expect in a new home, you end up with a home that has a depth of 58-ft. just for the first-floor plan. He doesn't think that they have done anything overly extravagant here, other than they have a den, a grate room, an entry, master bedroom on the first floor, a laundry room and a kitchen. The sizes are all sizes that they don't think that they have overdone anything. They have a master bedroom that is 16x16, dining room that is 10x14, grate room that is 18x20, a garage that is 24x24. He doesn't think that for a house that they went overboard. They have talked about it, numerous times about what they thought that would work in the area that they could build and invest and obviously be able to sell. They don't think that they went overboard, they do realize that with the depth of the lot, how that cove comes in there, they lose some of the property as far as property line goes. They tried to conform the best that they can, which they know they are asking for variances and he would hope that they would be able to look at them and certainly hope they would be able to grant them, but would be happy to try to work with the community the best they can. He works with lots of lake communities, they have built many homes on many lakes and dealt with variances and tight lots and constructions and they are always good with their neighbors and they certainly want to be good with the community.

Trustee Flood stated that when he was out there, they have four lots for sale. This parcel number they are talking tonight, is that lot number one?

Mr. Riddle replied correct.

Trustee Flood said he wanted to make sure because they were all different sizes on those.

Mr. Riddle said yes there are, it is lot number one.

Trustee Flood noted that he drove his truck down there, with 4-wheel drive and when he made the turn-around down there he had to make sure that he was not too close to the lake. It was about a 30-ft. drop down there?

Mr. Riddle replied that it is about 20-ft. on lot one. When they come off the road it is going to have a little taper down and then they are going to have to build a taller basement and then go down towards the lake.

Trustee Flood asked have the walkout on the lakeside?

Mr. Riddle answered correct.

Vice Chairman Durham stated four lots side by side, are they building a house for someone that has purchased lot #1?

Mr. Riddle said now what they have on lot one right now, they do have a couple of interested people but right now it is actually himself Rising Construction working with the owner trying to build a home that their plan is spec the home and or sell it ahead of time, but right now it is Rising Construction building a home.

Vice Chairman Durham questioned if they had a choice of all the lots, if so, would one have been bigger?

Mr. Riddle answered that yes, they could build on any of the other lots, they are available at this point, but this is the largest of the lots.

Vice Chairman Durham asked if the lot perks?

Mr. Riddle responded that it has sewer, all of them do.

Trustee Flood said they would be on a well though?

Mr. Riddle said well and sewer, correct.

Mr. Riddle added that one other thing from lot one down through lot four, he really right now only is involved with lot one, he would love to do all four but really talking about lot one. One of the things the owner has looked into with his help is taking the power lines and putting them underground which he thinks will be an added value just in the look of going down the road. They are trying to do everything to make it a nice home in the community and look similar to the pictures that he is presenting.

Board Member Walker stated that one of his issues he has, he was there earlier tonight when he made a lady tear down her fence, because it was right up to the shoreline of the lake. They are asking for a variance from that shoreline for 1-ft. for the house but either 9-ft. or 11-ft. for the deck. He doesn't know how he feels about granting him that variance after telling her she had to tear her fence down.

Mr. Riddle replied that the only way he can try to answer that, it is because of the back and the height of the house and the first floor being almost 14-ft. in the air, he thinks that a deck is something that they have to have as far as their point of view. When you add that on the deck that they are asking for is 13-ft. deep it is not in his opinion an overpowering deck, unfortunately, with 13-ft. it brings them closer to the lake. That is why he got the aerials trying to see around the lake what other people have done in those situations, and it appears that other people have been able to work with them just like he wants to and achieve a nice home and be closer to the lake than what is probably allowed.

Trustee Flood said he understands that the house is 1-ft. that they are asking for a variance, on the deck now it is going to be a 1st floor deck?

Mr. Riddle replied correct.

Trustee Flood asked so the walk-out deck is not going to be on the ground, it will be on a second floor?

Mr. Riddle answered correct it is going to come off of the main floor but that main floor is taller than the ceiling.

Trustee Flood noted that they will have the stairwell coming down off of that deck, is that correct?

Mr. Riddle replied correct there is a stairway shown on the drawing.

Trustee Flood asked that 11-ft. is actually going to be suspended up in the air?

Mr. Riddle answered correct.

Trustee Flood stated except for the stairwell, actually the stairwell is going to be what is closest to the lake shoreline.

Mr. Riddle showed the plan it is going to be basically like the houses next door. They have basements and then they have decks coming off of the main floor.

Secretary Kosciuszynski asked what is the Practical Difficulty.

Mr. Riddle answered that the difficulty for them is the depth of the lot and the grade of the lot. The deck runs across from the first floor over to the grate room, is what they are proposing.

Chairman Yaros questioned can you build a house on this lot without variances?

Mr. Riddle replied it would be very small. The lot actually is .161 acres which is roughly the 7,000 sq.-ft. is the lot, so if you take 25% of it and you add a garage the first floor would probably be 1,000 sq.-ft. and a garage might be, he didn't even know if they could get 20x20 on a garage.

Chairman Yaros asked square foot wise, how big is the deck?

Mr. Riddle responded the deck is 688 sq.-ft. and it is approximately 13x48.

Chairman Yaros said he appreciates that they put the deck on there because a lot of time they get people that come in there and they are looking for variances for a house and a year down the road, they need a deck. Well yea, they are on the lakeside.

Mr. Riddle replied that is exactly why they put it on there.

Chairman Yaros noted it is good to do that now rather than coming down a year later looking for a deck. The only question is do they need the full width of the deck, because the farther north that they end the deck the farther they are away from the lake. If they had 35x13 ft. deck, he didn't know if that would be a big deal, they wouldn't need such a variance. The reason he is saying this is whatever variances they get on this they are going to see on 2, 3 & 4. They have to be vigilant in what they do and they need to have reasons why they do it.

Mr. Riddle stated that what they presented is what they feel, would be what they would like. Certainly, on the deck they think that is an area where they could hopefully work together. In the home, like he was saying before, when they look at the floor plan, they just end up with a home that is 58-ft. it is not that long of a home

Trustee Flood noted that deck takes up a lot of the square footage percentage on the lot. It is hanging in the air it is not actually on the ground. The only thing that is going to encroach is the stairwell and the stairwell is not going to be 11-ft. wide. How wide are their stairs?

Mr. Riddle stated that the stairs are 3-ft. wide.

Trustee Flood noted that shrinks it down to about 8-ft. there.

Mr. Riddle said that to the north is the master bedroom of the home, to the south is the living room. It is closer to the south to the lake than it is to the north.

Chairman Yaros said his point was the farther north you go the land extends farther out so the variance is less.

Secretary Koscierzynski stated she did agree the deck is on the second story. It is not unusual for that area to have decks on that level.

Vice Chairman Durham said his feeling is while their business isn't to make anybody money up there, if they are not going to deem those lots unbuildable they have to be able to bring houses in that will attract a buyer to make their money back and enough to make them happy and increase the value of the neighborhood. He doesn't think that there are going to be many people running for 1,000 sq.-ft. house especially with the land cost. He doesn't have an answer but it is something to think about.

Trustee Flood stated that he likes the idea of the developer putting the underground utility in. He thinks that is always a good thing if they could get the electric underground.

Chairman Yaros commented for a house to be 2,500 sq.-ft. but that includes a garage it doesn't include the deck, that isn't really out of sight in size of houses on Lake Orion.

Vice Chairman Durham noted that he personally does not have issue with the deck because it does not occupy ground. It is a variance under the ordinance language, but it is not going to present a problem for anybody.

Chairman Yaros noted that his biggest problem is the 44% coverage, it is just a massive coverage.

Trustee Flood added but it is such a short small lot too.

Secretary Koscierzynski noted that is their Practical Difficulty. This is personally living a block away from the lake, she really likes it when people want to spend money and make things look good and a brand-new house would be really nice because a lot of the house there are older, it is nice that they are willing to do that.

Mr. Jerry Richards, 535 Indianwood, said he is at the end of Cushing, they built their house there 1973. When he first became aware of this, he got the notice in the mail like anyone else would within the 300-ft. area, he took the time to go to the Township he looked at the plans and thought that it is a beautiful home. Then he was reading through all the variance's and he has never seen so many variances requested to build a house. If this was an existing home and they were trying to expand it like many home on the lake get expanded then there is a different set of circumstances there but they are building a new house and it does have some design considerations, design challenges but 44% and he heard one of the members of the Board already acknowledge this, 44% is unbelievable that they would even consider even doing that. The home is over sized for the property, bottom line. The property is expensive but so what, the house is being overbuilt for the property, and that is not right. This suspended deck that is 11-ft. of the edge of the lake, to him it is not acceptable, there is supposed to be a 25-ft., just because it is suspended doesn't mean that it is not in that same footprint of the lake. The reason that they have a setback is so they have a buffer area between the primary structure and the lake water and that is for natural filtration of the water run-off. If he has a deck up there and it is waterproof deck maybe because they know what happens when they are in lake living there is going to be another deck underneath that deck that is going to be built as part of the new home. It may not happen as part of this build but someone down the way is going to do that. Then they are going to want to waterproof that upper deck, and when they waterproof that upper deck then they have lost all of that run-off capability to protect the lake. They see it happening in a lot of different situations, where the encroachment on the lake is really wrecking their ability of their lake to remain healthy. He is a Charter Member of the Lake Association, they have been around since 1977, they were principle in putting together their special assessment district for the purposes of water management program to control the

weeds and they have a lot of challenges on their lake and this is certainly going to add to it, it might just be a little bit, but it is a big deal for the lake, because a little bit here a little bit there pretty soon you have a big problem. He would ask that the builder be challenged to come up with a smaller home that starts to fit within the confinement of the ordinances, otherwise, why do we even have ordinances why don't they just get rid of them and let people build whatever they want, because they are going to do it one way or the other it looks like. This will set a precedent for the remaining three lots, whatever you guys decide tonight it will be a rubber stamp for the next three lots, because you have it once they are going to do it over and over again. He just asked that the Board seriously consider that this is not the right fit for this particular project.

Mr. Riddle stated that as far as the water run-off goes, he will tell them that on a number of difficult lots on lakes and he just finished two very nice projects in Silvan Lake that the homes are 6-ft. apart, and one of the is 7,000-sq. ft. and the other one is 4,000-sq. ft. They will have proper drainage here, the gutters will be tied in, it will all be done correctly as far as, and he is sure the Building Department is going to make sure that he does it correctly, but the amount of water will not be any different than the amount of water in his opinion than the lot already has. They will route it through gutters and a drain system so they are not hurting or infringing on the lake.

Chairman Yaros stated that there is a reason they have a 25-ft., there is a reason they have a wetland.

Trustee Flood said that Mr. Richards is exactly right they have had all of these 100-yr. old cottages on that lake, everyone of them have come before the ZBA to get variances to build these bigger houses and they always want to get closer to the lake and it has been a problem ever since they wanted to put permanent homes on the lake.

Chairman Yaros noted that they see variances for side yards, they see variances off the back and the front, but they don't normally see all seven of them at one time. The one he really has a problem with is the coverage, because he really doesn't have a problem with the side yard, and the lakefront is a little problem because 11-ft. even though it is an upper deck that is close.

Mr. Riddle added that when he went around and looked at homes on the same street, their homes are closer than what they are asking for on the deck. It doesn't mean right or wrong or indifferent but again trying to conform with what they have, that is why they took pictures of the homes on the lake and back yards that are right there. He is trying not to overbuild they actually have revised these plans three different times from 3,500 down to 2,500 at some point. Their difficulty is if the home gets too small it is unsaleable, he knows that is not their problem but it is their problem in trying to help develop this lot and whatever goes on with the other lots.

Chairman Yaros questioned instead of having four lots, maybe it should have been three lots and then they could have had a bigger home. There are four lots, but they are asking for a lot of variances.

Mr. Riddle said that he would ask before they vote, obviously he would like exactly what they asked for but if he can't get it, he would appreciate to know what would be acceptable trying to move forward. If it is a little bit of tweaking the deck, he is here to try to make it happen.

Trustee Flood commented that he just did the math on the deck, it is like 9.4% of that total lot coverage is the deck. If they take the 9% of the 44% that is about 35% then right.

Vice Chairman Durham noted that it is lot coverage under the ordinance but it doesn't touch the lot. It is like if you sat on the roof, technically under the ordinance language it is lot coverage, but he looks at coverage as coverage, a shed a driveway a garage. It doesn't sound like there is much movement that they can do with the plans that they submitted?

Mr. Riddle responded that there is not a lot that he can do, but he is here to try to make it happen, but including the garage at 58-ft. and 48-ft. wide. If he had a foot in the width and a foot in the depth, it is something that will work, if it is 10-ft. it can't work, not with this particular plan or what for him to personally invest into a home there. He thinks that a first-floor master is very important.

Vice Chairman Durham stated the suggestion that he always make in these cases is rather than play this on the fly would he better served to postpone and go back and chew over the drawings some more and represent and a later time?

Mr. Riddle replied he doesn't know the answer because each one of them probably has a different feeling of what that could be and instead of him trying to guess, he is prepared to negotiate on part of it if they can if not, and he went back and looked at it, he doesn't know if what he looks at will be what is acceptable the next time they are there.

Board Member Walker said that it would seem to him from what he feels and thinks and what he has heard that lot coverage is issue number one, that is the biggest issue. There was a discussion about not counting the deck, he doesn't think that they can do that? They can't not count the deck because it is not technically lot coverage, because it is technically lot coverage and then every other person in the Township could say, you guys said that wasn't lot coverage, so I can build a deck as large as I want. That would be a slippery slope to be going down, so he didn't like that idea. Lot coverage and proximity to the lake he would guess, if there was something more important here than those two, he doesn't know what it would be.

Mr. Riddle commented trying to research of what is on the lake, right on the same street, just the ground floor of the home which typically doesn't include the garage is 2,733 sq.-ft. of 495 Cushing and according to what he was able to pull up at Oakland County Assess, the lot is .28 as far as the square footage which is almost a 50% lot coverage. He is certainly willing to negotiate and he understands what he is asking for.

Chairman Yaros said that he has been on the Board for 25-ys. he has never seen a 44% lot coverage that they have allowed. Maybe there is somewhere, somehow, a lot of these homes were rebuilt from their original, a lot of that stuff is original because they can build if they have the original foundation, they can only vote on what they have in front of them.

Mr. Riddle stated it was a home that was newly built.

Chairman Yaros replied that he would have to look at each one individually he had no idea. Right now, the sticky point is the lot coverage. The lots get smaller and people are going to want more coverage.

Diane Dunaskiss, said she doesn't envy the decisions that they have to make, but the lot lines for Lake Orion were established how many years ago? When Lake Orion 40 miles from Detroit was considered a vacation spot, there were almost no year-round homes on the lake, the lots were designed for cottages. Times have changed it is a lake for homes and in today's world, and she is not looking at cost, she knows they are not there to help them make money or is that what they are concerned about, but if a person wants to live on a lake and pay the property taxes that are associated with a lake and have a family and live in a home that is comparable to homes in 2019, you can't build a 1,000-ft. home anymore. If they want to have homes on the lake that are comparable that bring up the value of not only these properties but the homes that are around the property and make a lovely home and a beautiful lake front and always still maintain the integrity, she understands the concerns that they have and she thinks that Mike is ready to address as much as he can, with regard to drainage and run-off etc. This is 2019 and we are dealing with land sizes that were established many years ago when homes were totally different. If they are going to provide homes for families in 2019, on lots that were designed 100 or 50 years ago they have to make some variances. She thinks they need to be realistic with what

people are willing to purchase and live in if they are going to be on the lake or anywhere, she doesn't know where they would build a 1,000-ft. home.

Chairman Yaros said that they have to follow the ordinances and if they need to change ordinances than that is something else. When they squeeze this much house into a very small lot that is a problem, that is what they are trying to deal with.

Board Member Walker stated that they review the Master Plan every five years, so is that something they should factor into the next Master Plan review, he doesn't think that the Township has ignored what has happen in the Township in the last 30-yrs.

Trustee Flood said that someone had made a comment earlier about having 4 lots there they could combine them into three.

Chairman Yaros stated that if they want big homes on the lake that is what they do instead of putting a big home on a really tiny lot. These lots were designed for cottages they weren't designed for 2,500 sq.-ft. homes they were designed for 650 sq.-ft. cottages where everyone enjoys the lake but no one can afford that now a days. No one wants 650 sq.-ft. cottages, it just doesn't happen.

Mr. Riddle said that obviously for him it is the season is there, with what has been presented would it be if the lot coverage came down, and I know they probably can't answer that this evening but if they were to squeeze a little bit out of the house and squeeze some off of the deck?

Chairman Yaros replied that it would be more palatable for him if the lot coverage was less, and he doesn't know how much he can squeeze out of it. He doesn't have a magic number, but he knows that 44% is pretty high.

Mr. Riddle said that he would prefer not to have to start from the beginning, so he is asking so that if there is something that they maybe willing to live with and he can live with and they can mutually work to achieve a goal, that is what he is trying to do.

Secretary Koscierynski noted that if they postpone it then Dave Goodloe, the Building Official will be there and he might be able to give them more insight.

Trustee Flood noted that they don't have to repost or reapply.

Mr. Riddle asked so what does he need to do, resubmit basically the plan?

Chairman Yaros said they would come up with a date and yes you need to resubmit a plan if you want to change it.

Trustee Flood said to get back with the Planning and Zoning Director Tammy.

Secretary Koscierynski said that he can postpone until June 24th or after that it would be July 8th.

Chairman Yaros asked how long would it take for him to go back and rethink this?

Mr. Riddle replied that he will work on it immediately because it is the building season. Not only on this project is he trying to be the builder on this lot but he is also the real estate broker for the four lots for the family, and the inquires he get on the lots, one of the big things is, what are they going to put on here, so that is part of it too, what are they going to be able to do. Obviously, they are specifically talking about lot one, but they are trying to develop.

Chairman Yaros said the look of the home is great, they are just trying to squeeze a lot of them and he doesn't know if they are going to get that.

Mr. Riddle said that the 24th would be fine.

Board Member Walker asked if he was the realtor on this also?

Mr. Riddle replied yes.

Board Member Walker questioned if his sign was on the corner of Indianwood?

Mr. Riddle answered yes.

Board Member Walker stated that it is in the way. They need to move that because you have to look around that sign to turn right on Indianwood, and since they paved it, they go 65mph down Indianwood. He would move the sign off the road another foot or two.

Mr. Riddle responded that he will he thought he did it there. He will move it.

Trustee Flood asked if he was willing to postpone to June 24th?

Mr. Riddle replied correct.

Moved by Trustee Flood, seconded by Kosciuszynski, that in the matter of AB-2019-23, Mike Riddle, unaddressed lot on Cushing St. 09-03-278-026, per the petitioner's request to postpone it until June 24, 2019.

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

Motion Carried 5-0

AB-2019-24, Claude Chapman, 3780 Waldon Rd., 09-19-400-022

Chairman Yaros read the petitioners requests as follows:

The petitioner is requesting two variances from Zoning Ordinance No. 78, Article XXVII, Section 27.02(A)(8) – Lot size over 2.5 acres

1. A 725 sq.-ft. variance above the allowed 1,400 sq.-ft. Maximum Floor Area of Detached Accessory Buildings to build a 2,000 sq. ft. pole barn, for a total Maximum Floor Area of Detached Accessory Buildings of 2,125 sq. ft.
2. A 225 sq. ft. variance above the allowed 1,900 sq. ft. for a Total Maximum Floor Area of all Accessory Buildings of 2,125 sq. ft.

Mrs. Rebecca Graham, 3780 Walden Rd., the applicant presented. She stated that Claude Chapman is her dad and she just wanted to fill them in. She owns the house that sits in front of 3780, her house is 3760. A couple of years ago her mom got sick and her husband and her moved back to take care of her and since then she has passed and her dad wanted them to stay so they actually been living with him. When her dad passes, she is going to be taking over the house, well probably before he passes because it will be easier. Living back there, there is no place to put their stuff. Her husband inherited a lot of stuff, he has a backhoe, two trackers and they also has a 5th wheel, that is the reason they need such a big pole barn is to keep their 5th wheel in this pole barn so it will stay nice for when she goes to retire, she will have it and it will be paid for.

Chairman Yaros said that there is a lot of pole barns in that area. He was sure if they were all 40x50 but they are at lease 40x30 or 40x40, even on the areal they will see pole barns stretched up and down.

The real difference with their case is they are so far back behind the house in front that they are living in; they are living in 3780 now?

Mrs. Graham replied yes; she is with her dad right now.

Chairman Yaros stated that house is way back there, and they are proposing to put it 100-ft. north of the south lot line.

Trustee Flood said that he likes the idea, it is out of sight from the road, not requesting any setbacks, not requesting any height.

Chairman Yaros commented 725 sq.-ft. variance above the 1,400 sq. ft., but it is only above the 1,900 it is only 225 sq. ft. above total.

Trustee Flood noted it is almost a 4 or 5-acre lot there.

Chairman Yaros stated they got a very long driveway too.

Mr. Tim Graham said that he does have a backhoe all three trackers are pretty descent size. He doesn't use them for a business what so ever. The main purpose of the pole barn is for the 5th wheel, the 5th wheel is 40-ft. plus on length. The building has to be approximately 16-ft. tall just to get it in there because the door has to be 14-ft. He is staying within the variances off the property line he is asking instead of 20 he is asking for 30, and 97-ft. off the front property. The only thing is it is bigger but with that being said the contractor that actually is building it for him he could build it but it would take him forever and it wouldn't fall within the period of which they would want it built. The contractor told him to ask for the biggest size of the building that he could possibly ask for. The only reason why he would consider asking for that, he wasn't sure if there is was something more that he should be asking or but in the future he would like to build a two car garage and he doesn't have much room behind, he has a carport and a shed, his proposal to that would be it's too big or maybe take that down and put a garage back there for just cars.

Mrs. Graham stated that there is no garage.

Chairman Yaros said that the best way is to have an attached garage.

Mr. Graham replied the only issue with that is with that house, it is an old farmhouse there is no good way to attach it.

Chairman Yaros added that is the best way to do it because what they are dealing with here is detached accessory, and if you build a separate garage that is going to be more detached accessory.

Mr. Graham stated the only reason why he brought that up is because he told him that he could only go in front of the Board once. He has never done it before he is an electrician but he doesn't usually go in front of the Board.

Chairman Yaros responded that he can come in front of the Board, people come in front of them more than once.

Mr. Graham said ok than that is a different case.

Chairman Yaros stated he wasn't sure if they would get it or not, but they can come in front of them.

Board Member Walker noted that it might hurt them if they grant them a variance for this detached building already and then you come back and ask for a detached garage, it might affect how the vote will go because they are back in for something, but they can do it.

Mrs. Graham added they need a garage also.

Trustee Flood said that if they could attach a breeze way to the garage that is attached.

Mr. Graham noted that the only issue with that is behind the house there is a septic tank, so if he went behind the house and the drain field and all that. It would have to be on the side of the house which then he wasn't sure how close he would be to either side of the property line.

Chairman Yaros said it looked like it was quite a bit away from the property line; 20-ft. is what you have to be.

Trustee Flood noted he might have to ask for a little variance on that.

Chairman Yaros said they will look at all that if they decide to do that.

Mr. Graham commented any side of the house he just can't picture having a garage and having it look right if was attached that is all. Today he is shooting for the pole barn.

Trustee Flood said that front end loader has been sitting out there a long time.

Chairman Yaros stated that if they can put there stuff inside, but no one is going to hardly see that building it is so far back.

Mrs. Graham said she sees all the junk that needs to be in the pole barn.

Mr. Graham stated this is what he has to contend with more or less she complains about it. The trackers and stuff like that, they have set outside for many years, they were at his mom's house out in Fowlerville. He would like to get at least part of them inside because it doesn't do them any good to sit outside.

Board Member Walker questioned if they could put some kind of garage in the front part of the pole barn?

Mrs. Graham answered but do they know how far she would have to walk.

Trustee Flood noted that would be a long breezeway.

Mrs. Graham stated that the house came from Heather Lakes and her parents moved it from Clarkston, back in the day.

Mr. Graham said that it was a pig farm at one time and that house was for the hired hand.

Mrs. Graham noted that she is so thankful that she doesn't have neighbors; after being here tonight.

Moved by Secretary Koscierny, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-24, Claude Chapman, 3780 Waldon, 09-19-400-022, the applicant is requesting two variances from Zoning Ordinance 78, Article XXVII, Section 27.02 (A)(8) – Lot Size over 2.5 acres: 1) a 725 sq. ft. variance above the allowed 1,400 sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 2,000 sq. ft. pole barn, for a total Maximum Floor Area of Detached Accessory Buildings of 2,125 sq.

ft. 2) a 225 sq. ft. variance above the allowed 1,900 sq. ft. for a Total Maximum Floor Area of all Accessory Buildings of 2,125. sq. ft. be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they have set forth facts which show in this case: the following Practical Difficulty: due to unique circumstances of the property not related to general conditions or area of the property: they need the space to store a 5th wheel, a tracker, a backhoe and two other things that they have inherited from their father; 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 area: the lot is 4.058 acres and there is plenty of room it is not going to be a problem for Walden; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone vicinity based on the following findings of facts: they have all this equipment that they have inherited, it is not a good idea to leave it out especially in this area with the weather and it is not going to be a problem with Walden Rd.; the granting of this variance or modification will not be materially detrimental to the public welfare or materially injurious to other property or to improvements in such zone or district in which the property is located: because there is so much space on that lot, 4.058 acres; Further based on the following findings of facts, the variance would not impair adequate supply of light and air to adjacent property; it would not unreasonably increase the congestion in public streets: the pole barn is in the back of the house; it would not increase the danger of fire or endanger public safety; it would not unreasonably diminish or impair established property values: if anything it might make the property values go up; 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: Walker, yes; Durham, yes; Flood, yes; Kosciuszynski, yes; Yaros, yes.
Motion Carried 5-0

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

A. Memo from Planning & Zoning Clerk Harrison regarding item postponement dates

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

Board Member Walker commented regarding the email from Trustee Flood regarding the 6' privacy fences being placed on the 10/23/19 joint meeting.

10. ADJOURNMENT

Moved by Vice Chairman Durham, seconded by Board Member Painter to adjourn the meeting at 9:40p.m. **Motion Carried**

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

6/24/19
Zoning Board of Appeals Approval