

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
******* MINUTES *******
REGULAR MEETING – MONDAY AUGUST 12, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 12, 2019 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:

Lucy Koscierzynski, Board Member
Don Walker, PC Rep to ZBA
Mary Painter, Alternate
Loren Yaros, Chairman
Dan Durham, Vice Chairman

ZBA MEMBER ABSENT:

Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:

Dave Goodloe, Building Department Official
Mark Landis (Township Engineer) of OHM Advisors
Alfred Daisley Ordinance Enforcement Officer

OTHERS PRESENT:

Jeff Jundt	Terry Moran
Lori Soma-Hart	James Swoish
Eugene McNabb	Debra Walton

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

04-22-2019, Regular AMENDED Meeting Minutes

Moved by Secretary Koscierzynski, seconded by Vice Chairman Durham, to approve the 04-22-2019, Regular **AMENDED** Meeting minutes as presented. **Motion Carried**

07-22-2019, Regular Meeting Minutes

Moved by Board Member Painter, seconded by Secretary Koscierzynski, to approve the 07-22-2019, Regular Meeting minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2019-34, Jeff Jundt, 3151 Crooked Lake Dr., 09-26-151-030

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 2 variances from Ordinance No. 78:

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

- 1) A 2,346.77 sq. ft. variance above the allowed 1,400 sq. ft. maximum floor area of detached accessory buildings to build a 3,746.77 sq. ft. detached garage.
- 2) A 2,665.77 sq. ft. variance above the allowed 1,900 sq. ft. total maximum floor area of all accessory buildings to build a 3,746.77 sq. ft. detached garage in addition to an existing 819 sq. ft. attached garage.

Mr. Jeff Jundt, 3151 Crooked Lake Dr., presented.

Chairman Yaros stated that he was secluded; and have a big piece of property.

Mr. Jundt replied yes.

Chairman Yaros asked what the hardship that he needs to have a 64 ft. long out building.

Mr. Jundt replied all his vehicles, he doesn't want to have anything parked outside.

Chairman Yaros noted he could put his whole families, vehicles and probably his house too in that building.

Mr. Jundt noted that his dad and him were car collectors and he has five mustangs, a Model T, within the next 3-4 years he has his sight set on another Mustang; he owns 3 pick-up trucks, he has a bobcat and a couple of ATVs, lawn tractor. Even with all that stuff there he is still going to need lifts inside of the shop to put everything. He works on his own cars and restores them, and he needs a place to do that and he can't do that in his 3-stall garage.

Chairman Yaros asked if he was going to run a business out of it?

Mr. Jundt answered of course not, no.

Chairman Yaros said that people do that.

Board Member Painter asked where are your automobiles now?

Mr. Jundt replied they are on his farm in South Dakota. He has 5 vehicles on the property right now, he has his 2 trucks and 3 of his Mustangs currently on the property, he has his Model T and two other Mustangs and his other truck and other ATV back home in South Dakota on his farm.

Board Member Painter asked where did he hide his 3 vehicles, because she saw the truck?

Mr. Jundt replied that he has 3 cars in the garage.

Board Member Painter asked if it was 3 of his old cars or his regular cars.

Mr. Jundt answered that he had 3 Mustangs in his garage right now. That is the 3-stall garage that is attached to the house, and he has 2 trucks that must sit outside right now. The rest of the vehicles are all in South Dakota; you probably saw the Bobcat there too because that was sitting outside.

Board Member Painter replied she saw that.

Board Member Koscierzynski stated that she doesn't see a Practical Difficulty here. You are asking for a lot; and she felt he knew that.

Mr. Jundt replied oh yeah.

Board Member Painter added that he did not answer the alleged Practical Difficulty of not being self-created; that and, the topography and land make the setbacks impossible to meet because of, not necessarily the setback; why that spot because it is close to the driveway?

Mr. Jundt said mostly because it was close to the driveway because he will have to run electrical and plumbing into it, and in order to do that he doesn't want to be running a real long distance and he doesn't want to get it too far back in the property because it is a wetland, during the springtime it is all wet back there, so he can't go back any farther than that into the back of the property.

Chairman Yaros stated that one of the criteria for them to grant variances is a hardship, either because you can't do anything else or some type of hardship, a lot of time it is the size of the lot or whatever. In this case you can have 1,900 sq. ft. without a variance and 1,900 sq. ft. is a fairly good size. It is such a large variance; the hardship is that you have a lot of vehicles, according to you; right?

Mr. Jundt replied yes.

Chairman Yaros said other than the fact that you have a whole lot of vehicles to put in a building that he needs this size of a building, that is the bottom line.

Mr. Jundt noted that he wants to work on them because he works on them in the wintertime and if the 1,900 sq. ft., that basically only gives him another 3-stall garage and it is full and then at that point he still can't work on stuff.

Mr. Jundt added that he didn't want to leave sitting outside because it looks junky.

Board Member Walker asked if he would be willing to reduce the size of his request.

Mr. Jundt replied no, not no, this is going to be a decent influx and as far as money into the community too as far as what it is costing to build.

Moved by Secretary Koscierzynski, seconded by Vice Chairman Durham, in the matter of ZBA case #AB-2019-34, Jeff Jundt, 3151 Crooked Lake Dr., that the petitioner's request for variances from Zoning Ordinance #78: Article 78, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size over 2.5 acres: 1) a 2,346.77 sq. ft variance above the allowed 1,400 sq. ft. maximum floor area of the detached accessory building to build a ~~3,476.77~~ 3,746.77sq. ft. detached garage. 2) a 2,665.77 sq. ft. variance above the allowed 1,900 sq. ft. total maximum floor area of all accessory buildings to build a 3,746.77 sq. ft. detached garage in addition to an existing 819 sq. ft. attached garage, be **denied** because the petitioner did not demonstrate the following standards for variance have been met in this case and in that they set forth facts which show in this case: that the petitioner does not show Practical Difficulty due to unique characteristics of the property and not related to general conditions in the area of the property. The following are not exceptional or extraordinary circumstances, conditions to the property involved that do not generally to other properties in the same zone. We just don't see a Practical Difficulty the variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone or vicinity. He really doesn't have any neighbors he is on a six-acre lot so he can't compare anything. The granting of the variance or modification will be materially detrimental to the public: this doesn't apply in this case there is nothing detrimental.

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

Chairman Yaros stated sorry sir you have been denied.

Mr. Jundt replied really, the building is 40x64 the floor space is only 2,560 sq. ft. The 3,746.77 sq. ft., 1,500 of that is up on the top level.

Chairman Yaros sorry sir it was voted on the Board and you have been denied. You can alter that and come back with a new or smaller size. Right now, what you have requested was denied.

B. 2985 Judah Rd., the north 535 feet of Lot 11 of Mt. Judah Farms (parcel #09-32-400-056, Lot 11, except for the north 535 feet of Mt. Judah Farms (parcel #09-32-400-057), Lot 12 and the southerly 588 feet of Lots 13 & 14 of Mt. Judah Farms (parcel #09-32-400-055), and 3011 Judah Rd., Lots 13 & 14, excluding the southerly 588 feet of Mt. Judah Farms (parcel #09-32-400-063)

A request to modify the Ordinance 99 Permit of sand and gravel mining, earth excavation, and/or filling and earth balancing.

Mr. Joe Skore, Pulte Homes of Michigan presented.

Engineer Landis read through his review dated August 1, 2019. There were 3 conditions: 1) that the applicant has purchased the property to be excluded from the existing permit; 2) the applicant has posted the required Guarantee Bond to insure completion of the site improvements; 3) nine (9) copies of the revised grading or mining plan be provided to the Township for distribution.

Chairman Yaros asked if Mr. Skore was aware of what required by the Township or what Pulte must do to fulfill these requirements.

Mr. Skore replied yes, he was.

Chairman Yaros stated that they know that it was the south portion of the parcel that is south of the gas line; and it would be in the same area as Menards on that side, it would just be continually going west from there.

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

Mr. Eugene McNabb, 2981 Judah Rd., stated to move two acres or whatever it is to one lot to another; he doesn't know how many engineers or lawyers the Township Hall the Planning Commission, ZBA, the Building Department is all involved in it, which he has no objection of that. What he has an objection to, in 2008 he came down here at this meeting and Dan's didn't say anything about moving his property off the permit. He didn't say nothing about moving his property off the permit, it wasn't on the agenda at all. According to one person that was on the Board that said he was Lawyer and he said he can tell you what they can do. So, they took his property, 5 acres right off that permit and it was taken off to help the Township and it was the only reason it was taken off. Just remember it wasn't on the agenda he didn't ask to have it taken off, Dan's didn't ask to have it taken off, but it has been taken off and it has never been corrected, he came down here and that is what happened. He doesn't appreciate that one bit. If that is the way things are run in the Township, he believes it because he has been up here enough, and he knows how some of this stuff is run. He thanked them for that part of it and said he would be up on the next one.

Secretary Koscierzynski questioned if this goes through when are they planning to begin construction on this?

Mr. Skore replied that his goal is to begin construction within the next month. There are some tenants on the property and there is a concrete crusher on Mr. Warren's property that must be removed, if it is removed and the tenants have vacated the property, they will start construction with 30-days give or take.

Vice Chairman Durham stated that they have been for years when they renew these permits, they have a set of circumstances and part of that has been dust control of the area. He is assuming that just because the ownership changes the stipulations for dust control into the neighborhoods should remain the same.

Mr. Skore replied they are cognizant of dust control and they will maintain what is obligated at the site in terms of dust control.

Building Official Goodloe said there will be an active soil erosion permit on the property that will cover the dust control.

Mr. Skore replied of course, yes.

Engineer Landis stated that when the site is developed, they will be required to pull a soil erosion permit through the Township that will be monitored.

Chairman Yaros said that it will all go under the building portion of it.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, request for modification to the mining permit at 2985 Judah Rd., the north 535 feet of Lot 11 of Mt. Judah Farms (parcel #09-32-400-056), Lot 11, except the north 535 feet of Mt. Judah Farms (parcel #09-32-400-057), Lot 12 and the southerly 588 feet of Lots 13 & 14 of Mt. Judah Farms (parcel # 09-32-400-055) and 3011 Judah Rd. Lots 13 & 14, excluding the southerly 588 feet of Mt. Judah Farms (parcel #09-32-400-063) applicants request be **approved**, having reviewed the report of the Township Engineer, dated August 1, 2019, taken in consideration the purpose and the forcibility of the Township Ordinance and having recognized that a portion of the permitted property will be or has been sold and purchased for a development for which there has been Township approval of the site plan. Having received the Engineers determination that the site plan and grading are in substantial compliance with the Township Ordinance and the Engineer Standards, he moved to modify Dan's Excavating Ordinance #99 permit to remove the permit the land being purchased by the developer of Breckenridge Townhomes and any necessary changes in the grading plan as presented on the modified plan date stamped received August 1, 2019, conditioned upon the following: 1) transfer of ownership of the property proposed to be removed from the permit to the developer of the approved Breckenridge Townhome Site Plan; 2) the applicant posts the required performance Guarantee Bond for the Breckenridge Townhome project to ensure completion of the site improvements; 3) nine (9) copies of the revised grading plan signed and sealed by a professional engineer be forwarded to the Township to initiate the distribution process.

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

AB-99-01, Warren Trucking, Lot 28 of Highland Farms (parcel #09-32-400-024), Lot 29 of Highland Farms (parcel #09-32-400-022), Lot 30 of Highland Farms (parcel #09-32-400-021) and a 7.5-acre parcel (parcel #09-32-400-058)

Chairman Yaros stated that this is part of what Pulte is buying for their development.

Engineer Landis read through his review dated August 1, 2019. There were three conditions: 1) the applicant has purchased the property included in the existing permit; 2) the applicant has posted the required performance Guarantee Bond to ensure completion of the site improvements; 3) nine (9) copies of the revised plan be submitted to the Township for distribution.

Chairman Yaros asked if the people at Pulte, is he requiring that they tear down the building there that is existing on the property and there is some machinery there too.

Mr. Skore replied that any demo work will be done by Pulte. The owner of the property is required to remove any existing machinery and equipment and trailers prior to the close, but any demo work will be done by Pulte.

Chairman Yaros stated the removal of the rest of the stuff will be required before closing.

Mr. Skore answered that is right.

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

Mr. Eugene McNabb, 2981 Judah, said that he doesn't know where the property line is back there, but Bob Warren told him that he made a mistake and took some material off that property back there on that corner, so he wonders if his property is going to be restored back where it should be before they start working on it?

Chairman Yaros asked isn't this property way west of your property?

Mr. McNabb said what he is talking about is that point back there, because they are going to be coming back on Dan's thing and there will be a grade from his corner down.

Chairman Yaros replied there won't be anything north of the gas line at all.

Engineer Landis said that there is no proposed off site short of onto Dan's property. There is a small 60-ft. wide temporary grading easement that will extend up to the gas line.

Chairman Yaros stated there is nothing north of the gas line.

Engineer Landis said no.

Mr. McNabb said he is talking about south of the gas line, he owns right to Menards, and he owns that corner right there.

Chairman Yaros asked he is north of Menards, aren't you?

Mr. McNabb said correct right next to Menards.

Chairman Yaros said you are not north of Jack's property.

Mr. McNabb replied no; but the corner is. His corner and Jack's corner are right at the same corner.

Chairman Yaros stated that the engineer say's there is no grading proposed for that.

Mr. McNabb replied no but there was material taken off his property. Bob told him that, he didn't ask him, he told him that one time, that he mistakenly took some material off my property and he wondered if it would be straightened back up where his property should be?

Chairman Yaros replied according the engineer's no.

Mr. McNabb stated that according the engineer's that is a one-sided deal, that is what he is talking about right now.

Chairman Yaros noted that there is no way of knowing what Bob said; that effects the changing of ownerships.

Mr. McNabb said you look at the way the property moves and how it was dug up, a blind man could look at it you don't have to be 20-20. You might get into something else, that he can't tell them for a fact, but the gas line stopped the digging to start out with, it wasn't the Township that stopped the digging. It was getting too close to the pipeline; Bob would have kept digging on both sides closer to the pipeline, but he had to stop, he knows that for a fact. He doesn't know that or not or is being a friend of Bob's.

Chairman Yaros said they can only expose so much, and they must leave so much.

Mr. McNabb stated he wasn't sure how the grade is going to be if they go back on the southwest corner there will be a lot there that will have to be graded according to the way the lot line, it will have to be graded towards the west going down.

Chairman Yaros replied the engineers will have to figure that out and he would leave that up to the engineers.

Engineer Landis stated that the applicant is meeting the Township Ordinance as far proposed grades, restoring the site to a maximum 1:3 slop. They have already gone through site plan approval for their development and then as part of engineering they are also seeking approval from Consumers Energy for the proposed grading, so that will be a requirement that they will have.

Chairman Yaros said so they will have a requirement from Consumers that they will have to provide adequate coverage, he would say.

Engineer Landis noted that they will have to provide a copy of Consumers Energy approval for the work within their easement to the Township.

Mr. McNabb questioned who will check to make sure that it is graded 3:1 from his property down? What kind of buffer is going to be put in?

Chairman Yaros replied that the site plan has already been approved by the Planning Commission.

Mr. McNabb said he is not saying that the site plan hasn't been approved, he is saying he wasn't involved he wasn't asked no questions; what people come up with isn't always right that is what he is saying. You're the one's that make the decisions.

Chairman Yaros stated that he is not on the Planning Commission, he has no idea what they approved or disapproved. Whatever they approved is now law.

Mr. McNabb said he don't know if anything was approved on there, because he went to any meetings that was open to him. He knows when they put in other housing units in the Township's they put a buffer between the property and the housing units.

Engineer Landis replied there is an approved site plan it does have setbacks that were reviewed and approved by the Planning Commission. There is an approved landscaping plan incorporated into the development that has all been reviewed and approved by the Planner and PC.

Mr. McNabb said that all between him and Menards is a fence and a steep grade with weeds growing in it. He went to the one Planning Commission and they were talking about how they were going to maintain that hill, with what kind of machinery that is going to keep the weeds down the hill, but nothing has never been done there. From residential property there will be a fence, the steep hill and weeds. If you go to any other place where they build houses and stuff, there is always a buffer.

Chairman Yaros replied that whatever the Planning Commission has approved that will be required.

Mr. McNabb added so they have one dirty dog that lives in the Township that has lived here probably longer than anyone else and they kick him in the butt every time he turns around. That is the way he is looking at it.

Chairman Yaros said he wishes he could tell him different.

Mr. McNabb said they are up there deciding on something that they don't even know what is going on.

Chairman Yaros replied they know that there is an approved plan and that is all they need to know.

Mr. McNabb asked if they had the plans?

Chairman Yaros asked the site plan?

Mr. McNabb replied well they are doing the ordinances; on the site plan is what he was saying.

Chairman Yaros stated that the Township has excepted the approved site plan.

Mr. McNabb replied but they are the ones that take care of the ordinances on the site plan, or is he wrong?

Chairman Yaros replied that is correct.

Mr. McNabb said that they are settled in this distance right now of taking and moving.

Chairman Yaros noted that they are changing ownership is what they are doing, they are allowing them to change ownership, to go ahead with an approved site plan.

Mr. McNabb added they will have to see how it comes out. There is more trouble more lawyer fee.

Moved by Board Member Painter, seconded by Chairman Yaros, that in ZBA case #AB-99-01 Warren Trucking, Lot 28 of Highland Farms (parcel #09-32-400-024), Lot 29, of Highland Farms (parcel 09-32-400-022), Lot 30 of Highland Farms (parcel #09-32-400-021) and a 7.5-acre parcel (parcel #09-32-400-058) this is a request to close out the Warren Trucking Ordinance 99 Permit (AB-99-01) for sand and gravel mining, earth excavation, and/or filling and earth balancing. Having reviewed the report of the Township Engineer dated August 1, 2019, and having taking into consideration the purpose and enforceability of Township Ordinance 99, having recognized that the permitted property will be or has been sold and purchased for a development for which there has been Township approval of a site plan, having received the engineers determination that the site plan and grading plan are in substantial compliance with the Township Ordinance and Engineering Standards; I move to close Bob Warren's Trucking Ordinance 99 Permit and to authorize the refund/release of all the financial guarantees being

held by the Township related to said permit; this approval is conditioned upon the following: 1) transfer of ownership of the property included in the existing permit to the Developer of the approved site plan, 2) the Developer of the approved site plan posts the required Performance Guarantee Bond to ensure completion of the site improvements, 3) nine (9) copies of the Revised Final Grading Plan signed and sealed by a professional engineer be forwarded to the Township to initiate the distribution process.

Discussion on the Motion:

Chairman Yaros stated as representing the owner developer buying this property you understand what the conditioning of the permit approval is.

Mr. Skore replied yes, he does.

Roll call vote was as follows: Durham; yes; Walker, yes; Painter, yes; Koscierynski, yes; Yaros, yes.

Motion Carried 5-0

6. PUBLIC COMMENTS

Eugene McNabb, 2981 Judah, made some comments about a relator's sign at Judah and the round-about, that blocks the road when trying to pull out to the south.

Jim Swoish, 2741 Judah Rd., thinks that they have done a good job with the truck traffic going down the road it has been a night to day difference from this year to last year.

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Harrison dated August 12, 2018, Dates which can postponed.

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

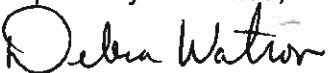
None

10. ADJOURNMENT

Moved by Board Member Painter, seconded Secretary Koscierynski to adjourn the meeting at 7:44pm.

Motion Carried

Respectfully submitted,


Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion


Zoning Board of Appeals Approval