

# CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

\*\*\*\*\* MINUTES \*\*\*\*\*

## REGULAR MEETING – MONDAY AUGUST 26, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 26, 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  
Mike Flood, BOT Rep to ZBA  
Loren Yaros, Chairman  
Dan Durham, Vice Chairman

### ZBA MEMBER ABSENT:

None

### CONSULTANT PRESENT:

None

### OTHERS PRESENT:

John Urech	Diane Naren
Kathy Urech	John Naren
Brett Holsworth	Jeff Hartais
Mary Duenow	Debra Walton
Lawrence Pershon	Peter Buccilli
Renee Wenner	Renee Rapanotti

### 1. OPEN MEETING

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

### 2. ROLL CALL

As noted

### 3. MINUTES

08-12-2019, Regular AMENDED Meeting Minutes

Secretary Koscierzynski noted a correction on motion for AB-2019-34, Jeff Jundt.

Moved by Commissioner Walker, seconded by Vice Chairman Durham, to approve the 08-12-2019, Regular Meeting minutes as amended. **Motion Carried**

### 4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

### 5. ZBA BUSINESS

#### AB-2019-35, John Urech, 2760 Buckner Rd., 09-08-426-021

Chairman Yaros read the petitioner's request of:

3 variances from Ordinance No. 78:

Article XXVII, Section 27.02(A)(8) Buildings, Structures, and Uses, for a lot size ½ to 1 acre:

- 1) A 325 sq. ft. variance above the allowed 900 sq. ft. maximum floor area of detached accessory buildings to build a 1,225 sq. ft. detached pole barn.

- 2) A 233 sq. ft. variance above the allowed 1,300 sq. ft. total maximum floor area of all accessory buildings to build a 1,225 sq. ft. detached pole barn in addition to an existing 308 sq. ft. attached garage.

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

- 3) A 13-ft. variance above the mid-point height of the principal structure (11-ft.) to build a pole barn 24-ft. in height.

Mr. John Urech, 2760 Buckner Rd., the applicant presented.

Chairman Yaros questioned if the applicant will be changing the use of 308 sq. ft. attached garage to living space and the applicant confirmed he would.

Chairman Yaros stated that if he does that then he will be below the 1,300 allowed maximum floor area, even though he will still be above and need a variance for the 900 sq. ft. maximum floor area of a detached accessory building, he would be below the allowable 1,300.

Chairman Yaros asked if the height needed to be 13' and the applicant stated he needed it that tall for his trailer.

Chairman Yaros stated that there were (3) three residence that have written about this matter. The first letter was from Margaret Honkanen, dated August 8, 2019 with no objections. The second was from Thomas Miszewski with no objections. The third was from James Densmore dated August 22, 2019, they were opposed to the pole barn due to the height, not in agreement with the 13-ft. variance. There were no issues with the Fire Department.

Commissioner Walker questioned when he was going to convert the existing garage to living space?

Mr. Urech replied that immediately after the pole barn is up.

The applicant agreed to decrease the height to 18-ft.

Secretary Koscierzynski questioned if the pole barn will be close to the garage?

Mr. Urech replied yes; and he will be moving the existing drive in order to put the new drive in and he already got that approved by the OCRC.

Trustee Flood asked what is the Practical Difficulty is right now?

Mr. Urech answered to put all his tools, camper in, and to have somewhere to work. He is a welder and a concrete guy he has a lot of tools and a tractor.

Trustee Flood said he heard that he wanted to convert his garage into living space because he had a small house.

Mr. Urech replied that the garage is actually too small. Everything he has is crammed into his garage and after the pole barn goes in, he is making that garage space a master bedroom.

Chairman Yaros stated that they can make it a condition; it will be tough to enforce once the pole barn is up, but they can make it a condition.

Chairman Yaros said that would be a hardship if they didn't have anything and they wouldn't want to leave a camper outside.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, to **grant** the following variances: from Zoning Ordinance #78: Article XXVII, Section 27.02 (A)(8): a 325 sq. ft. variance above the allowed 900 sq. ft. maximum floor area of the detached accessory building to build a 1,225 sq. ft. detached pole barn; a 7-ft. sq. ft. height variance above the midpoint of the principal structure to build a pole barn 18-ft. in height. The granting of the variances was conditioned upon: turning his single car attached garage into living space as soon as the barn is put in place. The petitioner demonstrated that standards for variance had been met in that they set forth facts which showed in this case a Practical Difficulty in that, he is in a small house with a small garage which he cannot use for the purpose that normally a garage is used for; he has the space to put up the larger building. He wants to put up the larger barn so he has a place to store vehicles, a trailer and the tools that he uses to make his living. The applicant demonstrated exceptional or extraordinary circumstances, he has a small house and garage, he has done a lot of work to clean the site up and make it more presentable already and he believes that his barn will finish and get him where he needs to be. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone: for facts already stated. The granting of the variance will not be materially detrimental to the public welfare, it will have no effect on air, water, or the neighbors.

Vice Chairman Durham amended the motion, Chairman Yaros re-supported, to include that there are many of these structures in the neighborhood a substantial property right existing by many properties in the same zone.

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

**Motion Carried 5-0**

**AB-2019-36, Brett Holsworth, 651 N. Blocki Ct., 09-11-410-013**

Chairman Yaros read the petitioner's request of:

Two variances from Zoning Ordinance #78:

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

- 1) A 10-ft. side yard setback variance (north) from the required 10-ft. side yard setback for a 6-ft. privacy fence to be erected 0-ft. from the side lot line (north).

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

- 2) A 30-ft. front yard setback variance (Rochester Dr.), from the required 30-ft. front yard setback (duel frontage) for a 6-ft. privacy fence to be erected 0-ft. from Rochester Dr.

Mr. Brett Holsworth, 651 N. Blocki Ct., the applicant presented.

Chairman Yaros questioned if he knew where the lot line was.

Mr. Holsworth replied roughly, he didn't know where the lot line would be.

Chairman Yaros questioned putting the fence behind the tree line, they wouldn't even see it from Rochester Rd.

Mr. Holsworth replied that he would have to cut down a lot of oak trees, and there is a concrete pond/fountain there.

Chairman Yaros stated that he thought if he had it back there then they wouldn't be able to see it. He noticed that the neighbor, you couldn't even see their fence, because it was behind the tree line.

Chairman Yaros noted that there are no other 6-ft. fences you see on Rochester Dr.; there is one across the street from him on the court. Then you are going to have this fence and then right behind it you are going to have all the pine trees.

Mr. Holsworth stated that he has a line of pine trees with the split rail there, that one would be hidden, it was just that one corner; the cleanest and the fastest way to do it would be just a 1 for 1. He could move it up way from the road.

Chairman Yaros said that even putting it where the split rail is, he is going to have to cut a lot of branches. He was just hoping that he could do it and hide it.

Mr. Holsworth noted that the other weird thing is that the closer to the house you get it the higher up the hill it goes, the fence is actually going to look bigger as they bring it up that hill.

Chairman Yaros stated that they won't see it if put it behind the trees.

Mr. Holsworth said that right behind the trees is the concrete fountain.

Chairman Yaros noted that he didn't walk through the trees to see that.

Mr. Holsworth added that is where water comes down the waterfall and then goes in for the top one.

Vice Chairman Durham questioned if he was aware that his neighbors may be happier with something other than wood fencing; maybe looking at maintenance free?

Mr. Holsworth stated that he was not terribly opposed to it.

Vice Chairman Durham asked if it would not necessarily be a deal breaker then?

Mr. Holsworth replied no; his neighbor Lisa and him were talking about a fence a year or two ago on their property line of something permanent and beautiful, and he told her whatever she picks, he would pay half.

Vice Chairman Durham stated that he is not normally a fan of stock-aid type fencing, but his situation there it is not going to be in his front yard, they will see a little piece of it on one end of the house and then another piece down by his barn and the rest if it will be wound around through until it gets to Rochester Rd.; correct?

Mr. Holsworth replied yes.

Vice Chairman Durham said that it is so thick in there, have you ever had problems with people cutting through there?

Mr. Holsworth replied that there is a police report attached, he had a few small children come across the backyard and they did about \$4,000 in damage to his wife's vehicle.

Vice Chairman Durham noted that he could see how they could do it, if you were looking out the window you would be lucky to see them.

Secretary Koscierzynski read a letter from 11 neighbors dated August 7, 2019, they were opposed to the fence.

Mr. Holsworth stated that they make is sound like I will be putting the fence adjacent to the asphalt.

The whereabouts of the property line was discussed. The applicant stated he did not know where it was for sure.

Chairman Yaros stated that he thinks they should know exactly where the right-of-way is. He didn't know how they can grant something that they really don't know what they are granting.

Trustee Flood said that when he looks at these 6-ft. privacy fences, he looks to see what is their hardship, are they are on a corner lot, are cars passing by and headlights are coming through their windows. When he looks at Rochester Dr., they have a beautiful natural barrier there. They rule on each case on its own merit, it doesn't make a difference if the guy next door has one or not. He didn't see the Practical Difficulty on Rochester Dr.

Chairman Yaros asked but on the north side he is ok?

Trustee Flood replied yes on the front property line on the west side.

Vice Chairman Durham noted that when he was there, it was the middle of the day and they were not casting a shadow, it was that thick back there. They could have a whole bunch of stuff going on back there and not be able to see it and not be able to tell if you have people in your yard. He could take a chainsaw and lay waist to it but he doesn't think that is what he wants, he needs some kind of barrier there.

Vice Chairman Durham replied that they do need to know where it is going; but the fact that something is needed back there, he would have no problem with the fact that something designed to keep people out is needed back there.

Secretary Koscierzynski suggested postponing until he gets surveyed.

Secretary Koscierzynski noted she wanted them to get a survey so they know exactly what they are doing. There are too many neighbors against it.

Chairman Yaros said they don't really know where it is going. The request is on the lot line; so, until they know exactly what that line is.

Vice Chairman Durham said that if he does go back and get a survey, please have them stake it and spray paint it. He is going to come back out there and he would like to be able to see what the plan is. If you end up with a survey and please have them go the whole way and thoroughly mark it.

Moved by Secretary Koscierzynski, seconded by Trustee Flood, to **postpone** to the September 23, 2019 PC meeting for AB-2019-36, Brett Holsworth, 651 N. Blocki Ct., 09-11-410-013, so that the petitioner has time to get a survey and so they can make a more exact ruling.

Discussion on Motion:

Trustee Flood noted that for the resident's, there will not be another mailing sent out. Any residents here remember September 23<sup>rd</sup> because they will not get another notice on this.

Secretary Koscierzynski, amended the motion to include, that the petitioner did request to postpone for the survey, for the property line on Rochester Rd.; Trustee Flood supported the amended motion.

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

**Motion Carried 5-0**

**AB-2019-37, Bosch (American Battery Solutions), 3740 S. Lapeer Rd., 09-26-300-010**

Chairman Yaros read the petitioner's request for:

1 variance from Sign Ordinance 153:

Section 7, Non-Residential Zoned Areas, Wall Signs; Zoned Lapeer Road Overlay – OP:

- 1) A variance to allow 1 additional wall sign (east elevation), for a total of 2-wall signs (east elevation)

Mr. Mike Stevens and Ms. Renee Wenner with Signarama in Troy, MI, presented. They also had two representatives from American Battery with them as well.

Mr. Stevens stated they are seeking approval for a secondary sign on the wall façade east frontage facing Lapeer Rd., the main wall façade that traffic sees. 80 sq. ft. in total size which is cohesive with the current Bosch sign that is up there. They followed the same design scheme and layout size, materials and construction, with American Batteries color scheme. On the north façade where the current Bosch sign is located, they set the American Battery on the opposite wall end, (the southernmost side), so it is not cluttered or too much sign on one location of the wall façade by spacing it out. Both of the tenants equally occupy the building, American Battery is towards the back and Bosch is towards the front, so they are limited on where they could put a sign unless it was facing towards the woods which would not do them any justice for traffic and visibility purposes through marketing on a major thoroughfare like Lapeer Rd.

Chairman Yaros stated that it is a great compromise, it equals out the building and they are not putting this big standup sign out on M24. He had no problem with it.

Board Member Walker asked how much of the building do you occupy versus Bosch, what percentage?

Mr. Peter Buccilli from American Battery Solutions, replied it was approximately 40%. They are way in the back and potential customers do about three U-turns and three traffic lights if they miss them.

Secretary Koscierzynski stated this sign is going to help your business. She didn't have a problem with this especially since it is going to help the business.

Trustee Flood stated that he always wants to know what the Practical Difficulty is and in this case here you see Bosch but their little sign on the bottom of Bosch going 55-60mph down Lapeer Rd. they are by it before they know it. That building is quite long too and he doesn't see it being out of proportion what so ever.

Moved by Trustee Flood, seconded by Chairman Yaros, to **grant** the petitioner's request for a variance from Sign Ordinance #153: Section 7, Non-Residential Zoned Areas, Wall Signs; Zoned Lapeer Overlay (OP); a variance to allow (1) one additional wall sign (east elevation), for a total of (2) two wall signs (east Elevation) case #AB-2019-37, Bosch (American Battery Solutions), 3740 S. Lapeer Rd., 09-26-300-010, because the petitioner demonstrated that the following standards for variances have been met in this case and that they have set forth the facts which show that in this case: the petitioner did show a Practical Difficulty, due to the unique circumstances of the property and this is along a major thoroughfare in Orion Township at Lapeer Rd. (M24) and the traffic goes by at the posted speed of 55mph. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to the other properties in the same district in that their building sits behind the original Bosch building and also along Lapeer Rd. are trees. You cannot see their building

from (M24). The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone district. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or districts in which the property is located. The granting of this variance would not impair an adequate light or air to adjacent property. The existing sign and the new sign are well in compliance of site distance and they fall within the setbacks of the property. It will not unreasonably increase the congestion in public streets, this will actually help with congestion with people wanting to get to their building. It will not increase the of fire or endanger the public safety. It will not unreasonably diminish or impair established property values with the surrounding area, and, in any other respect, impar the public health, safety, comfort, morals, or welfare of the inhabitants of Orion Township.

Trustee Flood amended the motion, Chairman Yaros re-supported, to include that it is not two separate buildings it is the same building just the back of the building.

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

**6. PUBLIC COMMENTS**

None

**7. COMMUNICATIONS**

**Article on variances from Planning & Zoning Director Girling**

**Memo from Planning & Zoning Coordinator Harrison regarding item Postponement Dates**

**Memo from Planning & Zoning Coordinator Harrison regarding Possible Meeting Cancellation**

Being that there was only one application received for the ZBA application deadline for the September ZBA meeting, the Board can choose to cancel the meeting.

Moved by Trustee Flood, seconded by Secretary Koscierzynski, to cancel the September 9, 2019 ZBA meeting due to lake of agenda items. **Motion Carried**

**8. COMMITTEE REPORTS**

None

**9. MEMBERS' COMMENTS**

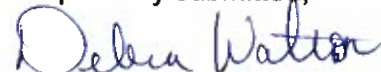
None

**10. ADJOURNMENT**

Moved by Secretary Koscierzynski, seconded by Vice Chairman Durham to adjourn the meeting at 7:46pm.

**Motion Carried**

Respectfully submitted,



Debra Walton  
PC/ZBA Recording Secretary  
Charter Township of Orion

  
Zoning Board of Appeals Approval