

# CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

## \*\*\*\*\* MINUTES \*\*\*\*\*

### REGULAR MEETING – MONDAY APRIL 27, 2020 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 27, 2020, at 7:00 pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

\*Please note this meeting was done virtually via a “Go to Meeting” #914-793-997\*

#### **ZBA MEMBERS PRESENT:**

Loren Yaros, Chairman  
Dan Durham, Vice-Chairman  
Don Walker, PC Rep to ZBA  
Lucy Koscierzynski, Secretary  
Mike Flood, BOT Rep to ZBA

#### **ZBA MEMBER ABSENT:**

None

#### **CONSULTANT PRESENT:**

David Goodloe, Building Official  
Tammy Girling, Planning & Zoning Director  
Al Daisley, Code Enforcer  
Dan Kelly, Township Attorney  
Mark Landis, Township Engineer

#### **OTHERS PRESENT:**

Dino Serraiocco	Irv Rupersburg
Terrence Moran	Joe Bird
Paula Huber	April Pugh
Catherine Laich	Cindy Jacob
Gene McNabb	Eugene McNabb
Debra Walton	Chris Cousino
Edward Soma	James Swoish

#### **1. OPEN MEETING**

Board Chairman Yaros called the meeting to order at 7:07 pm.

#### **2. ROLL CALL**

As noted

#### **3. MINUTES**

##### **A. 3-23-2020, ZBA Regular Meeting Minutes**

Moved by Commissioner Walker, seconded by Vice-Chairman Durham, to **approve** the minutes as presented.

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

#### **4. AGENDA REVIEW AND APPROVAL**

There were no changes to the agenda.

## **5. ZBA BUSINESS**

### **A. AB-2020-09, Dino Serraiocco, Vacant Parcel on King Circle, 09-10-278-019**

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting four (4) variances from Zoning Ordinance 78:

Article XXVII, Section 27.01 (C)(1)(a):

- 1) A 10-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04 – Zoned R-3

- 2) A 4-ft. side yard setback variance from the required 10-ft. to build a house 6-ft. from the side property line (east)
- 3) A 4-ft. side yard setback variance from the required 10-ft. to build a house 6-ft. from the side property line (west)
- 4) A 10.19% lot coverage variance above the allowed 25% for a total lot coverage of 35.19%

Chairman Yaros stated that he was at the vacant property and felt that Mr. Serraiocco had more room proposed between the homes than most of the people on the street. He was impressed with how much room they had from the road to the proposed garage. He thought that there shouldn't be a problem with parking cars.

Vice-Chairman Durham stated that variance #1 the lot width is what it is, they can't make it 50-ft. wide. If they are not allowed that variance, they will not be able to move forward on anything.

Chairman Yaros stated if the first variance doesn't pass then the rest of the variances are mute.

Trustee Flood said that looking at the lots on the plot that the Planning Department gave the Board, the majority of those lots are all 40-ft., that was the way they were plotted back in the day.

Chairman Yaros said that if it was 55-ft. wide, they would not need to have a variance because then, the side yards setback would be 6-ft. He didn't think that he was asking for anything more than everyone else had gotten with 40-ft. lot variance in the area.

Secretary Koscierzynski said she looked at the property and thought that it will be a nice house.

Commissioner Walker said looking at the map, all the lots are either 40 or 45-ft. He thought he was asking for something that would economically fit on the lot. He stated that he had no issues with it.

Planning & Zoning Director asked if there was anyone calling in via video conference? There was not. Planning & Zoning Director noted that there were no comments in the chat bubble. Also, the only email received was in the Board's packet.

Chairman Yaros said they had received an email from a resident that was concerned about the construction equipment on the road and breaking the road up. He asked if the applicant if they could honor that.

Mr. Dino Serraiocco replied that they could honor that. He stated that there is equipment that they could use that have rubber tires on it. There are also means, just in case they have to use the bigger

pieces of equipment they could actually put wood down there. He noted that he has been building 25 years and was aware of what machines can do to the asphalt. If anything happens to the road, he was willing to do the repairs on the road.

Ms. Catherine Laich at 659 King Circle. She asked where the building materials will be stored during the build? Mr. Serraiocco said that he had plenty of room in the front of the lot for any type of building materials. Ms. Laich replied great.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2020-09, Dino Serraiocco, vacant parcel on King Circle, 09-10-278-019, the petitioners request for four (4) variances from Zoning Ordinance #78, the first one, and only one, subject for this motion, is the 10-ft. lot width variance from the required minimum 50-ft. lot width. Article VI, Section 6.04 – Zoned R-3; the gentleman's lot is 40-ft. and there is nothing that is going to change that; it is a nice regularly shaped lot; he urged that this variance be **granted** because the petitioner has demonstrated 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 the following Practical Difficulty: there is no more ground.

Vice-Chairman Durham amended the motion, re-supported by Chairman Yaros to add that the setback will be approximately what everyone else is setback in the neighborhood.

Discussion on the motion:

Trustee Flood noted that the article was read wrong into the record, it should be Article XXVII, Section 27.01 (C)(1)(a). Vice-Chairman Durham stated he read the wrong line.

Vice-Chairman Durham amended to motion, re-supported by Chairman Yaros to correct the motion to be Article XXVII, Section 27.01 (C)(1)(a).

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

**Motion Carried 5-0**

Chairman Yaros stated that they are now going to move on to the second, third, and fourth requests, which are the side yard setbacks and the lot coverage.

Trustee Flood stated that he was glad to see that the applicants chose the lakeside as his front yard. The front yard, and the rear yard, which is the road, all meet the required setbacks. They are only talking about the side yards.

Moved by Vice-Chairman Durham, seconded by Yaros, that in the matter of ZBA case #AB-2020-09, Dina Serraiocco, the petitioner's request for the remaining (3) variances from Zoning Ordinance #78, Article VI, Section 6.04 – Zoned R-3: 1) 4-ft. side yard setback variance from the required 10-ft. to build a house 6-ft. from the side property line (east); 2) a 4-ft. side yard setback variance from the required 10-ft. to build a house 6-ft. from the side property line (west); 3) a 10.19% lot coverage variance above the allowed 25% for a total lot coverage of 35.19%, be **granted** because the petitioner has shown Practical Difficulty: the lot is regularly shaped, but small in width; the exceptional circumstances are: the size of the available parcel; the variances are necessary for the enjoyment and property right granted to others in his area: there are many houses with almost the identical measurements on the lot size; the granting of the variance or modification will not be materially detrimental to the public welfare or injurious to any property or improvements in such a zone or district in which the property is located: there is going to be a moderately sized house on a small lot; there is plenty of room between the garage and the road; it will not impair any inadequate supply of anything; it will not unreasonably increase congestion or danger of fire; it will not unreasonably diminished or impair established property values: if anything it should help property values in the area.

Chairman Yaros said he would support if he was to add that the side yards are what the other houses in the area are, and maybe a little more in some cases.

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

**Motion Carried 5-0**

**B. AB-2020-10, Texas Road House Holdings, LLC, 595 Brown Rd (parcel 09-32-400-077), 611 Brown Rd. (parcel 09-32-400-070), unaddressed parcel west of 595 Brown Rd. (parcel 09-32-400-076), 631 Brown Rd. (parcel 09-32-400-069) and unaddressed parcel east of 631 Brown Rd. (parcel 09-32-400-071):**

Chairman Yaros read the petitioner's request as follows:

The petitioner has requested two (2) variances from Sign Ordinance 153:

Section 7, Non-Residential Zoned Areas, Walls Signs, Zoned BIZ:

- 1.) A variance to allow two (2) additional wall signs to install a total of three (3) wall signs with a total square footage of all wall signs of 202.48-sq. ft
- 2.) A 2.48-sq. ft. variance above the allowed 200-sq. ft. maximum to install three (3) walls signs totaling 202.48-sq. ft.

Ms. Paula Hubert with GreenbergFarrow presented.

Chairman Yaros asked the applicant to explain the three (3) signs.

Trustee Flood stated that a revised square footage was sent to them via boardbook and the square footage was less. Ms. Hubert said that was correct. Trustee Flood noted that it was on page 31 of boardbook. Commission Walker and Chairman Yaros did not see the updated square footage.

Ms. Hubert showed the Board a drawing of where the signs will be located on the Texas Roadhouse building. She noted that the Texas Roadhouse will be in a larger development, that will be known as Grand Square. She has been working with Jason Kishmish on the project. The Texas Roadhouse is just a pad within that overall development. She understood that there was a site plan submittal last week for Grand Square, but will be coming soon if not. She added that the Texas Roadhouse will be a free-standing single-story restaurant. The entry for the restaurant will face east, which will be the entry to the restaurant and the south is facing Brown Rd. The main entrance will be where the customers will come for a sit-down restaurant dining inside the restaurant. They also have a to-go entry location, so customers that would be coming to pick up a to-go order would use the separate entry location. The primary façade is facing Brown Rd. With respect to the variances, they are seeking it is imperative to have an identifier at both the sit-down entry location as well as the to-go entry location in addition to the primary sign that addresses Brown Rd. She added that the square footage of those two additional signs are very nominal in proportional to the façade that they are located and are a key component to the operation of the Texas Roadhouse Restaurant. Obviously, at this point and time, a to-go operation is very key to business operations for restaurants.

Chairman Yaros stated that this is a common layout for a lot of restaurants with the to-go entrance being separate.

Chairman Yaros asked what the new request was? Ms. Hubert replied that the to-go sign was actually reduced. The initial request was 8.8-sq. ft. sign and the new request was 7.67-sq. ft. Chairman Yaros

asked what the total square footage was now. Ms. Hubert replied that it is a total of 201.32-sq. ft. Chairman Yaros noted that it was originally 202.48-sq. ft., so it is a minor square footage variance.

Commissioner Walker questioned what sign “B” was. Ms. Hubert replied that “B” is not actually a sign but some architectural illumination that is on the rear façade, not a sign. She stated that the sign vendor also provides architectural lighting.

Commissioner Walker said that they have not been to the Planning Commission yet for the site plan; is that true? Ms. Hubert replied that is correct. She added that the developer is responsible for obtaining all the site approvals and as the Texas Roadhouse representative, she is responsible for coordinating the building permit approvals and the sign variance approvals. She has been staying in close communication with Jason with regard to that site plan submittal. They have been providing Jason with plans with respect to that submittal and building elevations as well.

Trustee Flood asked if the Practical Difficulty was the way the building is situated, the main entrance is facing the east side not directly on Brown Rd.? Ms. Hubert replied correct; the way the building is sited within the overall development as well as with respect to Brown Rd. creates that Practical Difficulty for the project.

Planning & Zoning Director Girling asked to raise their hand if they were on video and wanted to make a comment.

Secretary Koscierynski asked what the number for the changes were? Trustee Flood read the new numbers; 1) 201.32-sq. ft. 2) 1.32-sq. ft. variance totaling 201.32-sq. ft., for a total of three (3) corrections.

Planning & Zoning Director asked if anyone was on a phone call please speak up. She said there was no one on the chat bubble, and there are no emails.

Moved by Secretary Koscierynski, seconded by Trustee Flood, in the matter of ZBA case #AB-2020-10, Texas Roadhouse Holdings, LLC, 595 Brown Rd. (parcel #09-32-400-077), 611 Brown Rd. (parcel #09-32-400-070), unaddressed parcel west of 595 Brown Rd. (parcel #09-32-400-076), 631 Brown Rd. (parcel 09-32-400-069), and unaddressed parcel east of 631 Brown Rd. (parcel #09-32-400-071), that the petitioners request for two (2) variances from Sign Ordinance #153: Section 7, Non-Residential – Zoned BIZ: a variance to allow two (2) additional wall signs to install a total of three (3) walls signs with a total square footage of all walls signs of 201.32-sq. ft.; a 1.32-sq.-ft. variance above the allowed 200-sq. ft. maximum to install three (3) wall signs totaling 201.32-sq. ft., be **granted** because the petitioner has demonstrated that the following standards for variances have been met in that set forth facts that show that in this case; that the petitioner’s Practical Difficulty is due to the unique certain characteristics of the property and not related to the general conditions in the area: the building is situated in the parcel it allows for visibility in different areas; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved but do not apply generally to other properties in the same zone or district: in order for the business to do well and for people to know about it, the signs in the different areas are essential for this because of the way property is situated; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity, based on the following facts: in order for the best place to do well and for people to know about it the signs need to be situated in different areas of the building; the granting of the variances 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 based on the following findings of facts: the way the building is situated and it needs this exposure; further based on the following findings of fact, granting this variance would not impair adequate supply of light and air to the adjacent property, it will not unreasonable increase congestion: these are signs to public streets; it does not increase the danger of fire or endanger public safety;

unreasonably diminish impair established property values within the surrounding areas, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Secretary Koscierzynski amended the motion, Trustee Flood re-supported, that this variance is approved contingent on getting approval of a site plan from the Planning Commission.

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

**Motion Carried 5-0**

**AB-99-02-2020, Dan's Excavating, Inc., 2985 Judah Rd. (parcel #09-32-400-056), and an unaddressed land that is a portion of lot 11 of Mt. Judah Farms south of 2985 Judah Rd., excluding a portion of lot 11 of Mt. Judah Farms that is part of Breckenridge Orion Condominium (parcel 09-32-400-096), and unaddressed land that is one (1) parcel west of 2985 Judah Rd. (parcel #09-32-400-095); and 3011 Judah Rd. (parcel 09-32-400-063)**

Chairman Yaros read the petitioner's request as follows:

The petitioner has requested a renewal of an Ordinance #99 permit for sand and gravel mining, earth excavating and or filling, and earth balancing.

Chairman Yaros asked who was there on behalf of Dan's Excavating.

Mr. Chris Cousino and Mr. Irv Rupersburg with Dan's Excavating presented.

Chairman Yaros asked to explain where they are at with the property at this time.

Mr. Cousino said they submitted an updated mining plan based on the past year's activities. They have been continuing to import material into this site. He felt they were doing a good job of managing the controls, and maintaining the conditions of the prior permit. He stated they have ongoing fill they are bringing in from I-75 at a good rate. As part of this request, and he didn't know if it was part of the Board's packet, that in order to try to expedite the closure of this project, which he thought was important to everyone, they would be requesting as part of this application an extension of hours. Right now, they are at 7A-5P Monday – Saturday. They are requesting the Board an extension of that from 7A-7P Monday – Friday, with the same hours on Saturday of 7A – 5P. They did get the letter from Mark Landis of OHM, and felt it accurate as far as his assessment, and did not have any issues with complying with those conditions within his letter.

Chairman Yaros said they have a current permit from the Road Commission for the route. He asked if they have spoken to them about coming in off of Baldwin Rd.? Mr. Rupersburg replied that in the past their bond it is for Judah road for the full mile from Baldwin to Joslyn. They have always chosen, the Joslyn route because of the safety of the exiting of Baldwin Rd. in the past. With the new elevation of Baldwin Rd., it has made it a lot safer with the round-about, as well. Chairman Yaros asked if they are hoping to use Baldwin Rd. more? Mr. Rupersburg replied that they are only using Baldwin Rd. now for the Baldwin Rd. project. All the trucks coming off the I-75 project are using the Joslyn Rd. route.

Engineer Landis read his review letter date stamped 4/20/2020.

Trustee Flood said he didn't get a chance to go on the site walk this year. He thought that pitch has to be almost full. He said the mining operation has been out there for 50-years. He wondered if there is finally light at the end of the tunnel? Engineering Landis replied said it truly is. There is quite a significant amount of fills that have been placed in the past year. The pit used to be at the top of the slope by the gas main is no longer. They are making significant progress of grading from the gas main down to the north towards the area where they are going to complete the construction of the retention ponds. His understanding was the amount of material coming off the I-75 project, far exceeded what

they need to complete the site. It sounds like they are getting very close in the next year or two, he would suspect, but deferred to the applicant for that. Mr. Cousino replied that it is their hope and wish that they could close this out this year. With this day and age, they don't know what tomorrow will bring them. They are very close to being able to get closer to this project, and they are going to be generating a significant amount of material off of the I-75 project. Mr. Rupersburg stated that with the fill may be done hopefully this year. The rest of the site work to comply with the reclamation plan will still be taking place probably until next year. Chairman Yaros asked if he was referring to the grading and they will not need any more materials? Mr. Rupersburg replied to the final touches, yes. Chairman Yaros asked if they are currently working on I-75 now; they have not stopped work because of the virus? Mr. Rupersburg replied correct, they are working.

Vice-Chairman Durham stated that one of the conditions for their approval is that they are requesting any start and end date of intense activity. Do they anticipate intense activity; and how much notice would they be able to give the Township? Mr. Rupersburg replied they already have activity this year. Are they just looking for a completion date?

Vice-Chairman Durham said that the extension of the hours has always been a hot button with the residence. He wasn't sure how that was going to go or how much weight they need to put on it. You know, in your own mind it is just a statement. Mr. Rupersburg said that they have been getting 7A-7P variance up until 2018. For some reason last year, it was denied. It reduced the amount of material that went in there during that time period. They would like to try to close this out this year or very early next year. The 7A-7P time frame will allow them to do that. If not, it is just going to continue to go year after year, which they don't want to do.

Vice-Chairman Durham said that residents are taking umbrage with so many trucks that all go down to Joslyn. The Chair asked at the beginning if they plan to use Brown Rd. more. They replied that they were using Brown Rd. for the Baldwin Rd. project. He asked if they plan to use Baldwin, even more, to relieve some of the traffic on Judah Rd.? Mr. Rupersburg replied that Baldwin Rd. is an acceptable entrance and exit for them. They can try to reduce the traffic to Joslyn and direct some of the traffic to Baldwin Rd. if that would help the residents. It is going to be the same volume, just some will be going the other way. The residents toward Baldwin Rd. are just going to be upset versus the residents off toward Joslyn Rd. He can redirect a few of the trucks so that it is a little bit better split. That is something that they would have to be recommended by the Board and they would try to comply with that. Vice-Chairman Durham said that it would be up to them and the motion maker, to decide if they wanted to make that a condition. But just hearing residents over the year, it might help.

Chairman Yaros said that it makes more sense to use Baldwin Rd. instead of Joslyn Rd. because it is faster. Trucks coming down I-75 are going to get to the job site a lot faster than coming off of Joslyn Rd. and going down Judah. He didn't think it made any sense to him that they wouldn't use Baldwin Rd. more. He said they could probably get more trucks in there, and not worry so much about the 7P ending time using Baldwin Rd.

Secretary Kosciuszynski said that the time change in 2018 occurred because they had several neighbors, up and down Judah Rd. complain about the amount of traffic and disruption. That is why they changed it to 7A-5P.

Commissioner Walker asked if the petitioner would be willing to put the percentage on the hauls from Baldwin Rd. versus Joslyn Rd. for them? If they thought that was necessary, for them getting approval for this? Mr. Rupersburg replied that it would not bother him. He would have to make sure that the Road Commission was fine with that. He didn't want to speak on behalf of the Road Commission.

Chairman Yaros asked if there was any public comment?

Planning & Zoning Director Girling stated that she was going to take them in the order of the faces that she saw. She stated the only hand she saw was Mr. Joe Bird. Chairman Yaros stated that the Board had received all of Mr. Bird's information. He noted that he had Dan's permit hearing talking points, plus the ZBA outline in opposition to the permit renewal. Mr. Bird said he didn't plan as an advocate or as a resident to repeat everything. It is the purpose of appearing orally to highlight things as if he were in a Court of Appeals.

Mr. Joe Bird 573 Nakomis Trail, a 20 plus year resident of Lake Orion. He said that the first point he wanted to make was said by the engineer. He said that the engineer just told them that it is mandatory that the applicant keep a log and include in that log a photograph of every truckload. Separate and apart from whether it is ever been requested or must be provided, that must exist as a condition of the permit and of tonight's permit application. In his discussions with Dan's, there have been no photographs taken and no logs from the date of the inception of the revised ordinance on April 22, 2015. Somewhere along the way in 2019, they took some for a couple of weeks. The point is they do not have logs and photos, not only is it required by the ordinance, but it is required by their engineer as a condition of this permit tonight. So, they have already failed in their request, and this Board can't grant the permit because the condition has failed, and no one has demonstrated to the contrary, that any photos or logs exist that are in compliance. As a resident, he is concerned about the rule of law and the zoning ordinance. Selective enforcement of the zoning ordinances is a sign or symptom of corruption. He has been involved in many government fraud cases where this is one of the first signs. It is in the enforcement of #99 and other ordinances, that he was concerned that they are fairly applied to all applicants. If Orion Township does not enforce its ordinances including Ordinance #99 as written and as approved by the Township, and the residents then the rule of law has disappeared in Orion Township, and the Township has become something else other than a democratically elected body. His focus is on Ordinance #99 in Section IV which mandates compliance with the ordinance in order to receive another permit. As to this permit application, as a result of his involvement in litigation with Dan's and the Township. On behalf of the McNabb's, he has learned a great deal about the history of this property and Dan's conduct. There were several reasons that he addressed this right now, and why Dan's does not qualify for this permit, in addition, to what the engineer has just told us that they do not qualify because they cannot and will not meet that condition. They should be debarred from any consideration for any contract or permit permanently. The reason for that is because 1) from 2000-2007 when they first received this permit, on this entire pit property, what they did was they failed to involve Mr. McNabb, the lot 10 owner in the application. They went around him; this apparently was not caught by the Township and a permit was issued fraudulently or illegally. For the next seven (7) years, Dan's went on McNabb's property and trespassed, conducted its activities. In 2007 it was apparently found out and the permit was then withdrawn to exclude lot ten (10). In one of the great ironies of life, now, Dan's says because they were on the lot illegally, they shouldn't have to clean up after themselves for the mess they made on lot ten (10). Isn't that interesting; they were there illegally and they don't have to clean up their mess. If they were there legally, they would have to clean up and get involved in the restoration. That is certainly a consideration in the condition that should be made. Again, that is contrary to both the permit application and it constitutes the failure on the part of Dan's to abide by the very ordinance through which it now seeks this permit. It literally thumbed its nose, not only at Mr. McNabb, but the entire Township, and all the residents. They said they are just going to go around it, get a permit without doing it the right way, try to hide it, and not clean up after themselves. It could not be worse conduct.

Mr. Bird added that Ordinance #99 mandates, both log and photos, so they already know that his condition can't be met. The very language that is cited by the engineer and that has been relied on in the past years on this permit is a manipulation of the actual language. The actual language is not even quoted correctly by the engineer. He did not want to go into that and start reading into the record what it actually says. It provides that those records that have to exist are to be provided monthly or sooner if requested. One of the cardinal rules of contract interpretation, statutory interpretation, is there is no reason to get involved when dealing with what they call surplus language. There has to be common



sense as to why that language reads the way it does and that it provides that it should be submitted monthly, that is because it should be submitted monthly. That language is not required if it is only requested. As to the violations of that, there have only been two (2) weeks of photographs of logs that have ever been produced, apparently, by a request by Mr. Goodloe. He promised to make the request in 2018. He did not, and if he did then Dan's didn't comply. He made a promise again in 2019 and again, it is in your records, and apparently, he either failed or Dan's didn't comply except for July and August of 2019, that is all there is. He noted that there should be fines of a minimum of \$10, a truckload per Ordinance #99 for all the failures of Dan's and that Orion Township should be pursuing that. Dan's shouldn't be awarded any mining permit at all for all of their failures, but at a minimum, it has to meet the commission that the Townships own engineer has set forth. It has to commit to cleaning up the mess on lot ten (10) and compensating the McNabb's for the trespass they committed by using this cover of the illegally obtained permit to go on there in the first place and to rectify their conduct. He raised the issue of why Orion Township is not enforcing this ordinance. Why, because there would be, every reason, for Orion Township to ask that Dan's do this given all the hubbub, about this project, all of the complaints that led to the Ordinance #99, photograph and log requirements being added onto that. He felt that someone at the Township could pick-up the phone and make the request after all these meetings. Mr. Goodloe couldn't even do that when he says he is going to do that. Twice he committed to doing it, and he never does and they never see it. What he was pointing out to them is why. In his involvement in these large government fraud cases, there is almost always a reason why. Whether you call it a talent poker, an example of one of the laws of human behavior in action for the famous British lawyer, Louis Nizer, for simply circumstantial evidence. Usually, there is money at the heart of such an arrangement. As to why Orion Township would not go after Dan's for continued violation of this ordinance, let alone even consider this permit, which should be thrown out now based on what the Township Engineer just said, because they can't, and don't comply with the very condition that has been read into the record. He thanked the Board and hoped that they had sufficient time to review the documents that he supplied to the Board. He noted that he did the best he could on getting the documents to the Board as early as possible. He tried to get them to the Board last week but had difficulties.

Chairman Yaros thanked Mr. Bird for putting the documents supplied by him in a nice manner that they could read and understand, what Mr. Bird was trying to say.

Mr. Edward Soma stated that he was an attorney also, and he had recently become involved with Mr. Bird. He said that his client that owns property at 3071 Judah has been extremely upset over the past several years. He concurred with whatever Mr. Bird had said. He said that Dan's is saying that they only want to do something if it is extraordinary. How do they define extreme active trucks going up and down that road? He has seen the road himself personally. He has been there at the property at 3071 and seeing trucks, double haulers going up and down there every five (5) minutes, hundreds and hundreds of trucks going up there. The Township has no control over the number of trucks that drive up and down that road. The road has been destroyed it has been totally devastated. The residents on the road cannot live in peace. There are children on that road. These doublewide haulers are going up and down the road. It is totally ridiculous that the Township doesn't comprehend the danger that these children and families are experiencing because of this, company that is hauling stuff that is in violation of the Township ordinances. He stated that it made absolutely no sense to him. He asked how do they define what is extreme activities? Dan's said they only want to do extreme activities. They also say they want to extend their hours; till what? Then it stops at 7 PM; who is going to put a meter on there at 7 PM? What Township Member is going to go out there and say, "Wait, you can't haul this past because it is 7:10 PM". There is not one of the members that are going to go out there and do what should be done. They need to understand, this is a total violation, of every one of these Judah Rd. residents, rights, and constitutional privileges.

Mr. Jim Swoish 2741 Judah Rd. stated that he has lived there for over 35 years. The number of trucks has increased so much and they are all stuck in their homes because of the quarantine, and it is

unbearable. There are more trucks than he has ever seen in his life; they can't even walk down the road. People start walking right after 5 PM and now they want to extend it to 7 PM. When can they walk and get some exercise? The road is a mess. They have dirt traveling, from Judah, halfway to Brown Rd., the same way on Baldwin Rd., they have dirt just dragged down the road. The Board always says they don't control the road, but the Township controls the pit and that is it. It is unbearable to live. He wants to have dinner, and listen to the banging of these trucks going up and down the road constantly, all summer long this is going to be just terrible.

Ms. Cindy Jacob 2741 Judah Rd. said that she invites anyone of the Board members to come out and sit down in their driveway, any day, and listen to the trucks, six (6) in and five (5) out at one time. Now the drivers are on their phones, and there are families walking up and down the road. She noted that she will start reporting them.

Mr. Swoish added that he did appreciate the Township Board Members, and asking for them to exit Baldwin Rd. They just fixed the road so it should be able to handle the weight. They are going to have to redo Joslyn Rd. within the next five (5) years because of the weights of those trucks just grinding that road. The cracks in the plaster of his house, he has an old house with plaster walls and has had to repair them a number of times. He would appreciate them reduce the number of hours and no Saturdays. They can take their loads down to Columbia where they hot a big pile of dirt where they could dump it there.

Ms. April Pugh 2900 Judah Rd. said that her concern was the extension of hours. Her quality of life with these trucks is destroyed. She is fortunate to be set back off the road. She could not even imagine being any closer to the road. It is a constant rumble all day long. You can hear them rumble all the way down to Joslyn Rd. Exiting more off Baldwin Rd. might help that rumble last, not as long. She hears the tailgates slam, the tracks of the bulldozers all day long. Her cars, her siding, she can't open the windows of the house because of all the dust. She has lost two (2) mailboxes, she can't prove that they did that, but what happens outside of my house is the trucks pass each other and her mailbox has been knocked off twice now in the past six (6) months. What is going into that pit, what is being filled, and where is the testing? These are our homes and properties and they all work very hard for it. She would love to see them reduce the houses just like someone else had mentioned. She is being woke up six (6) days a week and gets one (1) day of quiet time. For them to extend the hours would just be devastating, not only her mental health and her quality of life, but everyone else's on Judah road.

Mr. Terrence Moran 2740 Judah Rd. stated that it is not actually Judah Rd. it is gravel pit road, that is what they live on. He said he listening to everyone going back and forth with the engineers, and Dan's Trucking as though discussing dispassionately what is happening with the traffic on Judah Rd. It is incredible, it is a though, there are not actually 58 mailboxes up and down Judah Rd. There must be 150 residents, and they are like, who cares, let's extend the hours, let's destroy their life a little more. It is at the point now he has to wear noise-canceling ear, headphones in order to hear the TV, the noise is so bad. Mr. Bird was talking about keeping track of the number of trucks, it varies quite a bit. He said a couple of weeks ago they had a blitz of them, and he counted 200 trucks go past his house. Now, the Board said, 100 trucks, that is one (1) truck in and one (1) truck out. Well, those trucks go right by his house on the way in and on the way out. He has sat there and before 12N he had counted 200 trucks go by and they have until 5 PM to finish up and they were going at the same rate. Do you want to do the math on that? Some days they are at 200-300 trucks and sometimes 400 trucks go by his place every day. He was woken up this morning about 7:15A, that is all they hear, the roar is so loud it shakes the windows. They can hear it in their basement. He was out on the back porch, this afternoon trying to have a conversation with my wife and the trucks were drowning them out. It is unbelievable pressure on them. He is 73 years old and he has been there for 40 years. He hasn't had a peaceful spring summer or fall yet. They are given them the same old BS about, "oh, maybe next year". Now they are going to have to go through this again all year. He would like it to stop before he dies, but

apparently is it is going to be when he dies. When is the Board going to start thinking about the majority? All this BS about living in Lake Orion is like a vacation. Are you kidding? Not on pit road.

Laurie, 3071 Judah Rd. asked if they received a letter from her lawyer, Soma & Soma? Chairman Yaros replied yes. Laurie asked what can they do to lessen the hours? And she thought that the Chairman said they go down Baldwin Rd., none of them want them so just stop it, deny it, end it. She didn't want it at the Baldwin Rd., they don't want it at Joslyn Rd., deny it. She called the county about her culverts and the ditches which they used to maintain. They told her that they don't know who drives down her road. They used to take care of the road, and now she doesn't have that anymore. Dan's has made the roads so much worse. She didn't want to see them lessen the hours, she just wanted them to deny them this permit for once.

Planning & Zoning Director asked if anyone that was phoning in would like to make a comment. The caller replied Gene. Planning & Zoning Director asked if anyone else besides Gene? Eugene McNabb also called in.

Mr. Gene McNabb Jr. stated that he had some questions that needed answers that may lead to other questions. He asked if he will be getting responses to those questions? Chairman Yaros replied no; that this is only public comment, he could make comments and they will take to heart whatever he says.

Mr. McNabb Jr. stated that the first thing that he noticed, was the actual application headline is reworded now from what it has been for the last 5-10 years, at least since 2008 when they took lot ten (10) off. He questioned the rewording of that and if it is this making it a new permit? He said that 100 trucks a day are intense they are running a lot more than that. Is it going to be an all-out assault? Just because they called the Township, they are going to have to deal with that over there?

Mr. McNabb Jr. said he sent in some pictures into the Board. He asked if the Board had received them? Chairman Yaros replied yes. Mr. McNabb Jr. stated that the very first picture shows the top of the hill. He said when he took the pictures, he was standing about mid property and was facing southernly. He said they could see the fence row; this may help Trustee Flood since he has not been out there in a while to see what is actually there. They actually have it filled up to the top of the existing hill, which they have seen many times. It is actually flatted out up there a little bit, and the flatter they make that hill the farther they flatten that hill out towards Judah Rd. the more fill they can throw into that property. He wanted to know where the hill was going to start tapering? If they look at the topography, that water has got to run down to the easterly side of the property. If they go to the next picture, if they follow the fence line down, they will see a fence post with a white, sign on it. If they go down to the next picture, they will see the white sign and the rock in the background, and that little dark spot is where the ground is wet. That is where all that water from all that area is rolling down that hill. Right at that point it actually crosses lot ten (10) and runs into a retainer pond to the east on another piece of property. That was never there before until they made this huge hill. Now they are getting all this extra runoff running onto his father's property. That should not be happening. He said he noticed in the topo map they have a berm that they are going to build there to dike that up from entering his father's property. He asked why they are allowed to build a berm there if that is the purpose of it? It is not stopping it from doing it now. On the topo map, it mentioned a silk fence; he said he hasn't seen a silk fence on that property in 15-20 years. Why isn't their silk fence up? If he dug a basement on a residential piece of property the first thing the code enforcement would come out and ask, where is your silk fence. Maybe he is not noticing it or maybe he doesn't want to notice it. If you look at the dust picture, that was taken Saturday, back into the pit. He was out there today and it is exactly the same. Code enforcement, according to Dave Goodloe says he goes out there three (3) times a week. They never ever maintain that pit area for water. Nothing ever happens, they make their motions and put comments in there that they will control dust and this and that and it never ever is enforced, he didn't know why. Maybe there is an incentive to turn a blind eye when they pull into that driveway over there. He felt that the pit should be closed until they adhere to all these issues, it shouldn't have a permit, and

that pit is being overfilled. They need to stop and get another engineer in there to look at it and get the problems corrected. They commented that all this dirt is coming off of I-75. What is along I-75? Lead waste; study after study, 33% of lead waste fall-off the trucks. It is in the ground the water run-off it is it possibly back there? No one knows.

Mr. Eugene McNabb Sr. asked if Dan's Excavating has put any asphalt or hazardous materials in that pit in the last year? He saw on their new application that lot #09-32-400-056 is on the application to mine and excavate, and balance off as a permit. It is listed to do mining that is on the application for this year. That lot has never been on the permit, it wasn't on last year's permit. If you read through the minutes, the engineer lists that as a separate piece of property, the north part of lot 11. When Bob Warren turned the pit over to Dan's Excavating that pit was leveled off at 1,060. Dan's Excavating started out with Dan, then Mark and now Chris. That pit was dug to about 80-ft. deep right down into the water table. He has a picture of tires floating in the water pit. When the Township started to take over when people started squawking about the number of trucks. The ZBA and the Township said, what they were after, and the reason they were letting them do it, was because of the hazard of the hole and they wanted to get it filled up. When this hole gets filled up, they are all done with, it is taken care of and it is over with. They went to court on this deal, and the Court of Appeals said the pit site will be balanced off at 1,060. Dan's knows it, the Township attorney knows it, the court knows it and he knows it. The court system says when it is done it has to be certified that the pit is 1,060. That pit right now is over 1,060. It starts out higher than 1,060 and it is higher than his property is. It is higher than the property is to the west. When they talk about the top of the hill, over by the pipeline, on the south side of the pipeline, the Township let that grade be 3 to 1, which is less than 3 to 1, on the north side of the pipeline and this is both Dan's property. On the north side of this piece of property, they are letting him grade it off 4 to 1, minimum. The reason they are letting him do that is so they can throw more dirt in there. Instead of complying with what it is on the other side, they said no, you can throw more dirt in there. When they talk about the amount of asphalt, Code Enforcer Al Daisley said they are putting stuff in the pit to stop the dust. The reason they put the blacktop in the pit, which is a hazardous material, that is not even supposed to be in there, is because they tore up Baldwin Ave. that was asphalt. He thought because they didn't have any place to put the asphalt, so they dumped it in the pit. Now, that asphalt is covered with dust and everything else, it didn't stop the dust, all it did was help Dan's get rid of this hazardous material, asphalt. He couldn't understand, he felt that something was going on. He stated that he has done a lot of research and he knew more about this pit area than anyone walking on this earth today. He knew that any time there has ever been a decision of doing anything, he has never been consulted on it. It is always been the Township and Dan's. Now, they got an inspector right now, two of them, one Building Department and the one that comes out here, he can show where they either threw this ordinance out, or they lied about it. They had another inspector that when this thing went through in 2007 & 2008 when the troubles started, he went to jail for seven (7) years. He was wondering what was going on in this Township, and all it is falling back on the little guy. He stated, to tell the truth, and he honestly believed it, that the ZBA goes along with Dan's and the Township is because they are afraid of losing their job. He knew of two (2) different people that lost their jobs sitting on that ZBA because they went against what the Township wanted them to do.

Planning & Zoning Director read the first chat bubble from Brenda Skrzycki at 2735 Judah Rd. they said that they would like to request that the trucking stop at 5 PM Monday through Thursday and at 3 PM on Friday and Saturday and no trucking on Sunday.

Planning & Zoning Director read the second chat bubble from Eric Bedell 2671 Judah Rd. and he said that they also requested that trucking stop at 5 pm on weekdays Monday through Thursday, and at 3 PM on Friday and Saturday and no trucking on Sundays.

Planning & Zoning Director stated that they did receive two (2) emails and the Board Members had them in their packets. The emails were from a Greg Fons and a Joel Altus.

Mr. Bird stated that he wanted to point out what Mr. McNabb had said that this permit is being granted and it is about filling the pit with more and more dirt. If it already exceeds 1,060, and per the Court of Appeals, it must go down to 1,060, they are only allowing them to continue to violate what is going to be the Court of Appeals' decision, eventually. The more stuff that gets put in there, the more has to be taken out and taken somewhere else. If they don't stop it now, they are only going to contribute to the problem even further. Somebody is going to have to excavate that dirt out to comply with the Court of Appeals.

Chairman Yaros said that he started the 5 pm end time last year and felt that was a good idea. He felt that 7 pm at night was crazy. They shouldn't be hauling more than 100 trucks, that will have to be in the motion if there is a motion.

Secretary Koscierynski said she agreed with Chairman Yaros. She thought that they could do something for the residents of Judah, possibly lessening the hours on Saturdays. She agreed they should end at 5 pm and leave it up to discussion on Saturdays.

Chairman Yaros asked Engineer Landis what on lot 11, have all of these been on the previous permits? Engineer Landis said he would have to go back and check. He said that there were some newly created parcels because of the sale and splits of parcels.

Planning & Zoning Director Girling stated that she was able to go back the last two (2) years and 2985 Judah parcel 09-32-400-056 was both on the last two (2) years permits.

Commissioner Walker stated after listening to everybody, and not to say he doesn't feel sympathy and empathy for the residents, but this has been going on forever and he can't imagine how it has been for everyone living there. He felt that it was so close now. He said to Mr. McNabb Sr. that for the \$12/hour that he gets for this job, he would be happy to resign this and give it to Mr. McNabb Sr. if he likes. He doesn't do it for the Township, he does it for the people of the Township. He does what he thinks is right, every time he makes a decision, he is not beholden to the Township. He tries to make the right decision. He was thinking that the 5 pm stop time was correct. Maybe putting something in a 50/50 to Baldwin and Joslyn and splitting up that way. He was looking for a compromise along that line. The reason that he would vote for it is that he thinks it is that close and to leave it 95% or whatever it is. To him, that seemed to be counterproductive.

Chairman Yaros asked the applicant what do they think about the 50/50? Are they running more than 100 trucks? Mr. Rupersburg replied that he knew that there were no more than 35 or 40 trucks dispatched to that job. Where they are coming up with the number of trucks, he didn't know if Dan's Excavating was running 100 different trucks, on all the jobs located in Michigan at this time. Chairman Yaros said it doesn't necessarily have to be 100 different trucks, 40 trucks, running three (3) loads is 120 loads. If 40 trucks are being dispatched, and they are running more than three (3) loads, then they are running more than 100 trucks. Mr. Rupersburg stated that he said trucks, not loads.

Building Official Goodloe replied 100 trucks daily.

Chairman Yaros said 100 in and 100 out is 200 down the road but it is 100 trucks. Mr. Rupersburg noted that they are still saying trucks. Chairman Yaros replied yes; if they put in a stipulation if it does go through of 50/50, is that a problem? Mr. Rupersburg said he can let the drivers know half to come in one way and half the other way, but didn't know what the Road Commission would say. Chairman Yaros said he didn't know what his permit says for the haul route. Mr. Rupersburg stated that if the Oakland County Sheriff Department and the Weigh Master doesn't allow it then he can't. He would do it because it is probably a faster route. Chairman Yaros said that Baldwin now is an all-weather road. Mr. Cousino asked if that the condition be subject to the Road Commission's approval and discretion.

Trustee Flood asked Engineer Landis that on the topo map it has an outline of what that final grades are supposed to be; is that correct? Engineer Landis replied that it does show a 1 on 4 slope down from the gas main easement. There is not a plateau of any kind of elevation.

Trustee Flood asked do they know when that pit is finally full, and how to stop it? Engineer Landis replied that there are provisions within the ordinance that the applicant is to indicate when they are complete, and then there is an inspection to be done. Trustee Flood asked if there were parameters in there that they don't overfill that? Engineer Landis replied correct. Trustee Flood asked if they were on top of that? Engineer Landis stated that they have not been asked to survey or verify that at this point. Engineer Landis added that he believed in the ordinance, it states, that the applicants are to notify the Township. He stated he would have to go back and review the actual procedure on that. Trustee Flood stated that they are getting close to the end, and he wanted to make sure that they don't go over and then have to excavate and take the stuff out. Engineer Landis said that maybe the applicant could speak to that, but he assumed that they would have a survey crew come out regularly, staking, and or have equipment on their vehicles that help monitor grade.

Mr. Rupersburg stated that they have GPS on their equipment. They are actually in the process of building a file that goes in that equipment, that will put the grade exactly to what the plan says.

Vice-Chairman Durham asked if tonight was an extension of a current permit or a request for a new permit? Chairman Yaros replied that it is just a continuation of the permit process, but they have to issue a permit. Vice-Chairman Durham asked if it was going to be a new permit number? Chairman Yaros said that it is a new year so it will have an updated number, but is the same process they've used in previous years.

Attorney Kelly stated that every year, other than the year where they submit a new closure plan, it is considered, in his mind, as being a renewal of the previous year. When they submit new closure plans then they have a whole new plan to look at. That is not this year.

Vice-Chairman Durham said that they have heard so much information tonight, it is hard to separate what are people's opinions and what people know for a fact. Does anybody have reason to suspect or believe that all the blacktop that disappeared off of Baldwin went into that pit? He said if it did, he had a serious issue.

Chairman Yaros said that they did put some down to cut dust down at the beginning, but he had no idea if all the asphalt on Baldwin went in. He said most asphalt goes back to the plant because they can reuse it. He knew that the county gets a lot of the tailings to use themselves. He thought that the people that tear up the roads usually take it back to the plant, so he thought that the majority was going back to the plant.

Vice-Chairman Durham said that the applicant stated that they are tracking the grade. He stated that it clearly states in the OHM review under point number four (4), is that logs will be kept, pictures shall be taken. The people running the pit will be required to stand by that chapter and verse if this pit renewal goes through? Chairman Yaros said that is correct. Vice-Chairman Durham said it is there in plain language, so that shouldn't be a problem with the pit operators keeping it under control.

Vice-Chairman Durham added that he was in total agreement of stopping the hours at 5 pm, and Saturday. Also, he was in agreement with the 50/50 break to traffic to Baldwin Rd. and Joslyn Rd.

Moved by Trustee Flood, seconded by Chairman Yaros, that in the matter of ZBA case #AB-99-02-2020, Dan's Excavating Inc., 2985 Judah Rd. (parcel #09-32-400-056); and an unaddressed land that is that portion of lot 11 of Mt. Judah Farms south of 2985 Judah Rd. excluding the portion of lot 11 of Mt. Judah Farms that is part of Breckenridge Orion Condominium (parcel #09-32-400-096); and an

unaddressed land that is one (1) parcel west of 2985 Judah Rd. (parcel #09-32-400-095); and 3011 Judah Rd. (parcel #09-32-400-063); the petitioner is requesting a renewal of an Ordinance #99 permit for sand and gravel mining, earth excavating, and or filling, and earth balancing, be **granted** because this is a renewal of a permit to finally get this permit completed; it has been an aggravation for the residents for the past 60 years; also to meet the final permitting when it finally gets filled; hours of operations are restricted to Monday through Friday 7 am-5 pm and Saturday 7 am-5 pm, as the ordinance explains no Sunday or holiday work; the number of vehicles they are requesting is limited to 100 vehicles per day, and they have to get the haul route from the Oakland County Road Commissions and the Weigh Master; they would like to have that 50/50 Joslyn Rd. and Baldwin Rd. if the Weigh Master and the Oakland County Road Commission allows for that, now that they have Baldwin Rd. with the round-about it should be no problem; OHM's letter date stamped revised April 20, 2020, stated that it was their opinion that the application, and the submitted materials submitted to be in fair substantial compliance with the Township Ordinance #99, and the Township engineering standards: recommend that the following items be a condition of approval; 1) the applicant furnishes to the township a copy of the haul route permit once renewed through Oakland County Road Commission for Judah Rd., and the current permit is set to expire on 6/1/2020; that will also include their preference of 50/50 of Joslyn Rd. and Baldwin Rd. 2) the approximate start date and end date of any intense activity, if applicable, occurring on the site for the year should be included in the application and/or notice given to the Township prior to high periods of activity; 3) Per Section 7, Item I, of Ordinance 99, the applicant shall note that the tracking of material and dust control issues will be monitored and improvements may be required throughout the permit year; 4) Per Section 10 of Ordinance 99, a log of each fill material load shall be maintained by the applicant to document all fill is "Suitable Fill Material" as defined. In addition, the log will include one photograph of each truckload which shall depict the contents of the fill material and the date and time of the delivery. If requested by the Building Official, copies of all logs and photographs shall be submitted to the Township Building Department on a monthly basis or earlier; 5) construction materials such as edge drain not associated with the grading operations should be removed from the site.

Discussion on the motion:

Vice-Chairman Durham said that there was confusion about the number of trucks. They stated 100 trucks, he believed that it was noted that it would be 100 loads, correct? Chairman Yaros replied that is correct.

Commissioner Walker said in the motion under #3 in the engineers stated that it was Item "I" and he thought that it was Item "L" of Ordinance #99.

Amended by Trustee Flood, re-supported by Chairman Yaros that the item be listed as item "L".

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

**Motion Carried 5-0**

**6. PUBLIC COMMENTS**

Mr. Joe Bird said he had excepted Mr. Walker's resignation. He didn't know if Mr. Walker had the power to appoint Mr. McNabb but he wanted to make sure that they accept it and then his vote would be stricken, just now, because he offered to resign. Mr. Bird added that he has emailed and accepted his resignation, and that it was a parliamentary matter. He stated that Mr. Walker was no longer on the Board by virtue of his offer of his resignation. He then said he didn't know why Trustee Flood was laughing and thought that it was insulting to him and everyone in the community. He said Mr. Walker just offered to resign, and not to do that, it was insulting. Chairman Yaros asked Mr. Bird if he had a comment on this case? Mr. Bird replied that the Board Member was laughing at him like a juvenile delinquent. Chairman Yaros replied that he was not. Mr. Bird said if they had asked for and followed the law, by making sure they had the logs and photos, all of these photographs about the asphalt,

would have been answered. He added that none of them followed the law, they all ignored it. He added that they are disrespecting the Constitution of the United States by simply ignoring it. Mr. Bird said thank you for your service Mr. Walker and he was sorry that he had decided to resign but the record should show that it is a 4-0 vote and Mr. Walker is no longer on the Board.

Mr. Goodloe said that he has been receiving photos and logs of the pit since March 2019. He thought it would be difficult to monitor how to split the trucks halfway between the two (2) roads.

Mr. Gene McNabb Jr. said that it was concerning to him that he raised 5 or 6 different issues, 5 or 6 different questions, not one of the Board Members nor the participate addressed those issues. He added that the petitioner had their logs and photos they would have known how many trucks went in and out of there. He wanted an answer from someone on the Board as to why his questions to the drainage and the dust were not addressed.

Mr. Eugene McNabb Sr. said that Commissioner Walker told him that the Township told Commissioner Walker what to say. He added that he went out in his back yard and there was a stranger out there taking photos of his property. He stated that his property is listed on the pit site. He didn't know how they got it taken off the pit site into Dan's Property?

Planning & Zoning Director Girling said that she got a chat from a Cindy Jacob 2741 Judah Rd. said to the Board Members, she has some coffee and chair sitting out for them.

Planning & Zoning Director Girling received a chat from Eric Bedell that said Board Members want to make sure no one wants to live here.

Planning & Zoning Director Girling read a chat from Brenda Skrzyzcki that said the balance of traffic could enter one-way exit the other. This would split the inconvenience evenly to all the residents on Judah Rd.

Planning & Zoning Director Girling read a chat from Cindy Jacob that stated they do not care for the residents.

Mr. Soma questioned how they get the log records and photographs that were required under the ordinance? Chairman Yaros said that this was only Public Comment.

Mr. Moran asked how can Dan's Trucking be allowed to determine when the pit is going to be full enough for them to stop.

## **7. COMMUNICATIONS**

Article from Planning & Zoning Coordinator Lynn Harrison, regarding the March/April 2020 edition of the Michigan Planner Magazine regarding "Testing the Practical Difficulty of Non-use Variances, Part one".

Memo from Planning & Zoning Coordinator Lynn Harrison dated April 17, 2020, to possibly cancel the May 11, 2020, ZBA meeting.

Moved by Trustee Flood, seconded by Vice-Chairman Durham, to cancel the May 11, 2020, Regular ZBA Meeting.

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

### **Motion Carried 5-0**

Memo from Planning & Zoning Coordinator Lynn Harrison dated April 17, 2020, regarding dates which cases can be postponed to.



**8. COMMITTEE REPORTS**

None

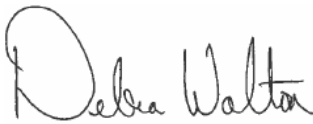
**9. MEMBERS' COMMENTS**

Vice-Chairman Durham said that he hoped that the applicant for the pit listened to everything that went on. He hopes that they listened to the neighbors and do what they are supposed to do and get this closed out so that they and the neighbors can put it behind them.

**10. ADJOURNMENT**

Moved by Trustee Flood, seconded by Chairman Yaros, to adjourn the meeting at 9:14 pm.

Respectfully submitted,



Debra Walton  
PC/ZBA Recording Secretary  
Charter Township of Orion

\_\_\_\_\_ June 22, 2020 \_\_\_\_\_  
Zoning Board of Appeals Approval