1. OPEN MEETING  
2. ROLL CALL  
3. MINUTES  
   A. 04/11/2022, ZBA Regular Meeting Minutes  
4. AGENDA REVIEW AND APPROVAL  
5. ZBA BUSINESS  
   A. AB-99-02-2022, Dan’s Excavating Inc.; 2985 Judah Rd. (parcel #09-32-400-056); and 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 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)  
   B. AB-2022-13, Marc McClintock, Vacant Parcel 1 Parcel north of 484 Cushing Street, 09-03-278-031  
      The petitioner is seeking 3 variance from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-3  
      1. A 3-ft. front yard setback variance from the required 30-ft. to construct a new home with an attached garage 27-ft. from the front property line (road side).  
      2. A 4-ft. side yard setback variance from the required 8-ft. to construct a new home with an attached garage 4-ft. from the side property line (north)  
      3. A 9.62% lot coverage variance above the allowed 25% for a total lot coverage of 34.62%.  
   C. AB-2022-10, Proposed ZBA Amended By-Laws  
6. PUBLIC COMMENTS  
7. COMMUNICATIONS  
8. COMMITTEE REPORTS  
9. MEMBER COMMENTS  
10. ADJOURNMENT

In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to request accommodations.
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 11, 2022, at 7:01 pm at the Orion Township Community Center, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Tony Cook, Vice-Chairman
Mike Flood, BOT Rep to ZBA
Tony Kerby, Alternate
Joann Van Tassel, Alternate

ZBA MEMBERS ABSENT:
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board Member

CONSULTANT PRESENT:
Lynn Harrison, Planning & Zoning Specialist

OTHERS PRESENT:
Mike Wick
Mike Nimmo
Matthew Coon
Jeff Cowley
Robert Egerton
Mike Kiekbush

1. OPEN MEETING
Chairman Durham called the meeting to order at 7:01 pm.

2. ROLL CALL

3. MINUTES

A. 03-14-2022, ZBA Regular Meeting Minutes

Trustee Flood commented that he spoke to the Township Attorney regarding the fact that the 03-14-2022 minutes submitted did not include the ZBA case number related to the amended motion for the 02-28-2022 minutes. Attorney Kelly told Trustee Flood that he could request the case number, AB-2022-01 be added to the 03-14-2-22 minutes therefore amending the 03-14-2022 minutes to add the case number to Item 3. A. 02-28-022 Regular Meeting Amended Minutes.

Board Member Flood moved, seconded by Chairman Durham, to approve the minutes as amended, adding “ZBA Case #AB-2022-01” to Item 3. A. 02-28-2022 Regular Meeting Amended Minutes.

Roll call vote was as follows: Van Tassel, yes; Cook, yes; Kerby, yes; Flood, yes; Durham, yes. Motion passes 5-0.

4. AGENDA REVIEW AND APPROVAL

Trustee Flood moved, seconded by Board Member Kerby, to approve the agenda as presented.

All in Favor: 5-0
5. ZBA BUSINESS

A. AB-2022-08, Father & Son Construction, 3442 Chalice, 09-28-302-001

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-2

1. A 3-ft. front yard setback variance from the required 35-ft. to construct an attached sunroom enclosure 32-ft. from the front property line.

Mike Nimmo, Father and Son Construction introduced himself and summarized the variance request. He explained nonconformities that exist in the neighborhood, and he presented pictures to the Board Members. The house was constructed in 1960.

Chairman Durham commented that the other homes could have been constructed prior to the present ordinance language. The petitioner is proposing a small addition with a small variance request. He asked how many square feet the house is before the addition.

Mr. Nimmo replied 1,100 square feet.

Trustee Flood stated that he does not see the practical difficulty and there are a lot of houses closer than this property.

Board Member Van Tassel stated that she drove by the property and there is a bay window on the east side of the house.

Mr. Nimmo replied no.

Board Member Van Tassel asked where the entry would be.

Mr. Nimmo replied the front. He pointed out the layout on the drawing and the location of the bay window.

Board Member Van Tassel asked how far the existing sunroom projects from the house and asked about the bay window.

Mr. Nimmo answered 8 feet. The bay window comes out 2 feet.

Trustee Flood stated that when he visited, the variance requested was clear to him.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Vice-chairman Cook moved, and Trustee Flood supported, in the matter of case AB-2022-08, Father & Son Construction, 3442 Chalice, 09-28-302-001 requesting a 3-ft. front yard setback variance from the required 35-ft. to construct an attached sunroom enclosure 32-ft. from the front property line be granted because the petitioner did demonstrate the following standards for the variance have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: when the property was built, the ordinances were different that applied to the property then.
2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the Board considered previous zoning and the fact of the measurement of the road in relation to where the house sits on the property.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the placement of the home and previous zoning ordinance.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact the Zoning Board received an email from the Fire Marshall dated Monday, March 21, 2022 saying that he had no concern with this case.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, and it would not unusually increase congestion on public streets. Also, it will not increase the potential of fire or endanger public safety and will not unreasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Cook, yes; Kerby, yes; Flood, yes; Van Tassel, yes; Durham, yes. Motion passes 5-0.

B. AB-2022-09, Jeff Cowley, 1323 Lake Shore Blvd., 09-10-103-021

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-2

1. A 3.5-ft. side yard setback variance from the required 10-ft. to replace deck/stairs 6.5-ft. from the side property line (west).

Mr. Jeff Cowley introduced himself to the Board and summarized the variance request. He explained the communication that he has had with the neighbors and how he has worked with them. The HOA and a neighbor have signed all the documents which are in the Board packets. He has hired a professional builder.

Chairman Durham read a letter into the record from a neighbor of the petitioner, Lauren Hamilton, opposing the variance request.

Trustee Flood thanked the petitioner for having the stakes in place on the property and commented that the Fire Marshall has no concerns. He asked if the petitioner was the original homeowner.

Mr. Cowley replied no.

Trustee Flood commented that the lot coverage is met, and the petitioner meets the 35-foot ordinance setback. The petitioner is asking to replace exactly what is already there.

Board Member Van Tassel asked if it was a side entry garage.

Mr. Cowley replied no.
Board Member Van Tassel pointed out the side entry garage. She asked about the single-story section and if it was about 5 feet from the property line.

Board Members confirmed that the deck is on the other side of the house.

Board Member Van Tassel stated that she fails to see how this will impair the view of the lake.

Chairman Durham asked for public comment.

No public comment was heard.

Vice-chairman Cook moved, and Board Member Kerby supported, in the matter of ZBA case AB-2022-09, Jeff Cowley, 1323 Lake Shore Blvd., 09-10-103-021 requesting 1 variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-2 be granted because the petitioner did demonstrate the follow standards for the variance have been met in this case and that they set forth facts that show:

1. The petitioner did show the following practical difficulty: there has been a change in the rules since the home was built in 1995 and the proposed deck will match and replace the existing footprint of the previous deck that was there because it was the original deck and there are some concerns from the builder in terms of its safety.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: it is on a lake with a deck that was built in 1995 and it has some safety concerns.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the fact that most of the homes in the area have decks and the petitioner is trying to replace an existing deck with safety concerns.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based upon the following findings: the Fire Marshall does not have any concerns about the construction of the deck nor the placement of the stairs as recorded.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, and it would not unusually increase congestion on public streets. There is also not going to be an increase of fire, or endanger public safety, and is not going to unreasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to the fact that Mr. Cowley did speak to one of his neighbors who had concerns about the visibility and Mr. Cowley did make modifications in order to address the neighbor’s concerns.

Roll call vote was as follows: Kerby, yes; Flood, yes; Van Tassel, yes; Cook, yes; Durham, yes. Motion passes 5-0.


Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking variances from Sign Ordinance #153
Section 7 – Non-Residential Zoned Areas; Ground Signs Zoned IC

1. 3.83-ft. height variances above the allowed 8-ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 11.83-ft. tall each.
2. 4.38-sq. ft size variances above the allowed 35-sq. ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 39.38-sq. ft. each.
3. An 8-ft. road right-of-way setback variance from the required 20-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the road right-of-way each.
4. A 6.5-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4B to be 13.5-ft. from the road right-of-way.
5. A 19-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4E to be 1-ft. from the road right-of-way.
6. A variance for 7 ground signs over the 2 allowed for a total of 9 ground signs.

Zoning Ordinance #78, Section XIX, Section 19.04 - Zoned IC

7. An 88-ft. front yard setback variance from the required 100-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the front Property line each (west).
8. An 86.5-ft. front yard setback variance from the required 100-ft. for ground sign #4B to be 13.5-ft. from the front property line (west).
9. A 99-ft. front yard setback variance from the required 100-ft. for ground sign #4E to be 1-ft. from the front property line (north).

Mr. Mike Wick, architect, introduced himself and Mr. Roger Briddick, Fairmont Signs, to the Board and summarized the variance request. General Motors has contracted with Fairmont Sign to change out all signs to the new logo at several of their sites.

Chairman Durham stated that nine variances are a lot and added that General Motors is a very large property with several entrances that are accessed in different ways, so it requires a lot of signage.

Mr. Wick stated that all the variance requests are for updating existing signage with the new logo.

Trustee Flood thanked the Planning and Zoning Department for the materials presented to the Board. He complimented the petitioner on the completeness of their application and materials. He stated that the practical difficulty is that they are the only IC zoned property in the Township because of the size of the plant. Also, they were in full compliance when the complex was built but the ordinances have changed since that time. Also, they are moving one sign out of the right-of-way. The renderings show the road right-of-way. He doesn't think the address needs to appear on the signs.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Vice-chairman Cook asked about the Solar Currents.

Mr. Wick replied that it is a green project within the GM site and the petitioner explained.

Board Member Van Tassel pointed out the language on a proposed sign.
Trustee Flood moved, and Board Member Van Tassel supported in the matter of ZBA case # AB-2022-11, Fairmont Sign Company for General Motors, 4555 Giddings Rd., 4550 Giddings Rd., 1971 Brown Rd. (09-34-200-006) & 4555 Giddings Rd. (09-34-400-011) that the petitioner’s request for variances from Sign Ordinance #153, Section 7 – Non-Residential Zoned Areas; Ground Signs Zoned IC:

1. 3.83-ft. height variances above the allowed 8-ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 11.83-ft. tall each.

2. 4.38-sq. ft size variances above the allowed 35-sq. ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 39.38-sq. ft. each.

3. An 8-ft. road right-of-way setback variance from the required 20-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the road right-of-way each.

4. A 6.5-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4B to be 13.5-ft. from the road right-of-way.

5. A 19-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4E to be 1-ft. from the road right-of-way.

6. A variance for 7 ground signs over the 2 allowed for a total of 9 ground signs.

Zoning Ordinance #78, Article XIX, Section 19.04 - Zoned IC

7. An 88-ft. front yard setback variance from the required 100-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the front Property line each (west).

8. An 86.5-ft. front yard setback variance from the required 100-ft. for ground sign #4B to be 13.5-ft. from the front property line (west).

9. A 99-ft. front yard setback variance from the required 100-ft. for ground sign #4E to be 1-ft. from the front property line (north).

be granted because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

1. The petitioner does show the following Practical Difficulties due to unique characteristics of the property: IC (Industrial Complex Zoning). Size: four-hundred-sixty-seven acres, totaling one (1) square mile. Location: Southeast quadrant of the township. Surrounded on three (3) sides by four (4) lane major roadways: To the south, Brown Road (boarding the City of Auburn Hills), to the north, W. Silverbell Road and to the west, Giddings Road.

The total number of variances, nine (9) requested, is due to the unique size and scope of the well-established IC zoned property. To remain in compliance of the current updated township ordinances, since the property was rezoned from an airport zoning to IC (Industrial Complex) Zoning, site plan approved/developed and is in full compliance of the township ordinances (standards) as required in the late 1970’s early 1980's and the petitioners request for the nine (9) variances is NOT self-created.
2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone:

The property is exceptional and extraordinary, due to the fact, it is the only property zoned IC (Industrial Complex) within the boundaries of the Township due to its location, size and unique characteristics.

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts:

In the same vicinity, located along the opposite side of the surrounding three (3) major roadways (Brown, W. Silverbell and Giddings), are numerous commercial and IP (Industrial Park) zoned properties displaying their respective signages alongside their respective ingress/egress connections to the roadways.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings: Replacing the old outdated and worn signs with the new rebranded signage, and location setbacks alongside the three major roadways, will be beneficial to the public at large for the numerous ingress/egress roadway connections located on the IC zoned four-hundred-sixty-seven (467) acre site.

5. The granting of this variance would not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets primarily because proper signage and location assist preventing congestion/confusion along the three (3) major roadways surrounding the IC zoned four-hundred-sixty-seven (467) acre site.

6. The granting of the variance will not increase the danger of fire or endanger public safety, specifically, an email dated, March 21, 2022, from the Township Fire Marshall, states, “have no concerns at this time”. The granting of the variances will not impede or impair the ingress/egress line of sight distance. All signs located on the site’s zoned property. Not encroaching into the RCOC 120-foot road Right-Of-Way (ROW), as measured from the road centerline of 60 feet on each side. In fact, the petitioner is removing sign #4E from the road right-of-way, alongside W. Silverbell Road, and being relocated several feet further back from the road right-of-way onto the site’s zoned property. Actually, one foot to be exact.

7. The granting of the variance will not unreasonably diminish or impair established property values within the surrounding area or, in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Charter Township of Orion.

Board Member Van Tassel stated that if all the signs at the General Motors complex met all the setbacks, there would be more accidents in this area because people would have trouble locating all the specific gates. This is a case where General Motors placed the signs in the right locations to allow for visibility. This property was rezoned to IC in 1980 and construction did not start until 1981.

Roll call vote was as follows: Van Tassel, yes; Cook, yes; Kerby, yes; Flood, yes; Durham, yes. Motion passes 5-0.

D. AB-2022-12, Michael Kiekbush, 829 Rustic Village Ln., 09-09-302-011

Chairman Durham read the petitioners request as follows:
The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SE

Article XXVII, Section 27.02, Lot Size 1 to 2.5 acres
1. A 120-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 660-sq. ft. pole barn in addition to a 624-sq. ft. attached garage and a 336-sq. ft. shed.

Mr. Mike Kiekbush introduced himself to the Board and summarized the variance request.

Chairman Durham asked what he was looking to store in the new building that he doesn't have room for now.

Mr. Kiekbush replied his wife’s car. His current garage has his wood shop contained in it which takes up room. He pointed out that he has 2.3 acres, and his property is close to the 2.5 acres which would give him additional allowance of square footage.

Chairman Durham asked if there was a commercial aspect to the activity.

Mr. Kiekbush replied no.

Trustee Flood asked about the driveway.

Mr. Kiekbush explained the driveway location.

Trustee Flood commented that the petitioner reduced the size to get it to 120 square feet over and the proposed meets all the setbacks.

Board Member Van Tassel provided historical background on the ordinance revisions. At that time, residents didn’t have toys and things that they have now. She suggested that the Zoning Board of Appeals re-examine this section of the ordinance. She stated that this request is reasonable especially when you consider changing conditions over time.

Trustee Flood concurred. He stated that if this petitioner had .2 additional acres, he would not need a variance.

Vice-chairman Cook asked if the petitioner’s wife’s car was going to be in the pole barn.

Mr. Kiekbush replied no; he would be moving the woodworking shop into the pole barn. He stated that he is planning on heating the pole barn with propane.

Chairman Durham suggested that the petitioner watch the dust produced by the woodworking activities.

Trustee Flood commented that the Fire Marshall has no concerns with this proposal.

Vice-chairman Cook asked if the petitioner was building it himself.

Petitioner replied yes.

Vice-chairman Cook asked about the power lines on the property.

Mr. Kiekbush answered that there are two power lines present, and he will be 15 feet from the power line so it will not be an issue.
Vice-chairman Cook moved, and Trustee Flood supported, in the matter of case AB-2022-12, Michael Kiekbush, 829 Rustic Village Ln., 09-09-302-011 that the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned SE, Article XXVII, Section 27.02, Lot Size 1 to 2.5 acres.

1. A 120-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 660-sq. ft. pole barn in addition to a 624-sq. ft. attached garage and a 336-sq. ft. shed.

be granted because the petitioner did demonstrate the following standards for the variance have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: not having enough property, a .2-acre difference.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the property is heavily wooded and in addition, they are only exceeding the total allowable square footage by 120 square feet.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the fact that the petitioner is storing items, this is more a factor of being able to have his wife park in the family garage for health, safety and comfort.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located. the Fire Marshall has no issue with the proposed construction of the pole barn in addition, the owner and constructor has taken into account the locations of the property lines. There has also been some discussion on heat sources and the generation of sawdust or other things that might cause an explosion.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on the public streets due to the placement on the property meeting all yard setbacks. There is also not going to be an increase of fire or endanger of the public safety due to the fact that the petitioner is aware that he must be cognizant of whatever heating source he will use and the fact that it most likely will be built to be a woodworking shop. The variance is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Flood, yes; Kerby, yes; Cook, yes; Van Tassel, yes; Durham, yes. Motion passes 5-0.

E. AB-2022-10, Amended Zoning Board of Appeals By-Laws

Chairman Durham read the proposed new sections and revised sections into the record.

Trustee Flood moved, and Board Member Van Tassel supported, that the Zoning Board of Appeals has noted the list of Articles and Sections of the amended Zoning Board of Appeals By-Laws that contain proposed changes and to bring that draft of the amended By-Laws back for possible adoption at the April 25, 2022, Zoning Board of Appeals meeting.
Trustee Flood stated that the Board received this on March 11, 2022, so the Board Members had a chance to provide input. This item went before the Township Board with the Planning Commission By-Laws last Monday, April 4, 2022, so they also had the opportunity to provide input.

Roll call vote was as follows: Cook, yes; Flood, yes; Van Tassel, yes; Kerby, yes; Durham, yes. Motion passes 5-0.

6. PUBLIC COMMENTS
None

7. COMMUNICATIONS
See below.

8. COMMITTEE REPORTS

Board Members discussed the Ad Hoc Fence Committee and the notes that were provided to the Chairman regarding their findings.

9. MEMBER COMMENTS

Vice-chairman Cook commented that there should be a demonstration plot in the Township to show residents alternatives to fencing like arborvitae or shrubs so they can see what it would look like.

Board Member Van Tassel suggested an area that a resident can view vegetation that could be used as an alternative. She stated that there is a section in the zoning ordinance regarding allowable landscape. She stated that the Committee will give some consideration to illustrating alternatives.

Board Members discussed having examples readily available to residents when they come to the Township offices, and they inquire about putting up a fence.

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board Member Van Tassel, to adjourn the meeting at 8:22 pm.

Vote was as follows: Cook, yes; Flood, yes; Kerby, yes; Van Tassel, yes; Durham, yes. Motion passes 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
ZBA Application
Check List for Ordinance 99 Use

There is a non-refundable fee of $500.00 for an Ordinance 99 application.

Instructions for Applicants:
Please follow the checklist below. **All** information must be complete and included at the time the application is submitted. **Incomplete** applications will not be accepted.

1. **Proof of ownership**: (Acceptable documentation includes: Warranty Deed, Quit Claim Deed, Land Contract, and Option to Purchase with a Copy of the Warranty Deed) **If** the applicant **is not** the property owner, then written authorization from the property owner must also be included.

2. **Ordinance 99 required documentation** (Ordinance No. 99, Section 5):
   A) Legal description of premises
   B) Names & addresses of applicant (with proof of legal interest(s))
   C) Topographical survey map
   D) Statement of filling and removal
   E) Removal method, equipment and time estimate statement
   F) Applicant experience
   G) Daily vehicle estimate
   H) Route identification, etc.
   I) Final land use
   J) Permission to enter onto licensed property (see actual application)
   K) Others (environmental impact statement, special conditions of permit, bonds & insurance, etc.)

3. **Petitioner, or representative with written permission of the property owner(s), must** be present at the meeting.

*If you have any questions, please call the Planning & Zoning Department at (248) 391-0304, ext. 5001.*
Charter Township of Orion Zoning Board of Appeals
Application for Ordinance No. 99
Case Number AB-99-____

NOTICE TO APPLICANT
Fill out application. Additional information (letters A-K per ordinance No. 99, Section 5) may be supplied on a separate sheet. Incomplete applications will not be accepted. A check made payable to Orion Township must accompany application. Please contact the Planning & Zoning Coordinator at (248) 391-0304 x 154 for application submission deadline. For information relative to the powers and duties of the Zoning Board of Appeals, please refer to Act 184 of the Public Acts of 1943, as amended, of the State of Michigan, and to Article XXIX of the Orion Township Zoning Ordinance #78, effective July 2, 1984, as amended, and Section 4, B, Ordinance No. 99, effective December 25, 1991, as amended.

I/We, ______ Dan's Excavating Inc _______ of _______ 12955 23 Mile Rd _______ (Name) _______ (Street Address)

Email: ______ ljurda@dansexc.com _______ (City, State, Zip)

Phone: ______ 586-254-2040 _______ Cell: _______ Work: _______ Fax: _______ 586-254-2259

do hereby appeal to the Zoning Board of Appeals for consideration affecting
(please provide very explicit details of the affected property; by parcel):

<table>
<thead>
<tr>
<th>First Parcel Number</th>
<th>0-09-32-400-096</th>
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<tbody>
<tr>
<td>Subdivision and lots, within this parcel, that will be affected</td>
<td>Mt Judah Farms Lot 11</td>
</tr>
<tr>
<td>Describe what activity will occur on this parcel:</td>
<td>Ordinance No. 99 Permit Activities Completed</td>
</tr>
<tr>
<td>Acreage affected within this parcel</td>
<td>2.62</td>
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<table>
<thead>
<tr>
<th>Second Parcel Number</th>
<th>0-09-32-400-056</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subdivision and lots, within this parcel, that will be affected</td>
<td>Mt Judah Farms Lot 11</td>
</tr>
<tr>
<td>Describe what activity will occur on this parcel:</td>
<td>Ordinance No. 99 Permit Activities Completed</td>
</tr>
<tr>
<td>Acreage affected within this parcel</td>
<td>2.02</td>
</tr>
</tbody>
</table>
Third Parcel Number 09-32-400-095
Subdivision and lots, within this parcel, that will be affected
Mt Judah Farms Lot 12
Describe what activity will occur on this parcel:
Ordinance No. 99 Permit Activities Completed
Acreage affected within this parcel 8.05

Fourth Parcel Number 0-09-32-400-063
Subdivision and lots, within this parcel, that will be affected
Mt Judah Farms Lots 13 & 14
Describe what activity will occur on this parcel:
Ordinance No. 99 Permit Activities Completed
Acreage affected within this parcel 6.68

If additional parcels, please attach separate sheet detailing same.

The petitioner, having met the conditions and requirements being familiar with Ordinance No. 99 of the Charter Township of Orion, requests a permit be granted as follows:

Application for the closure of the existing Ordinance No. 99 Permit which expires May 15, 2022

Name & Address of Property Owner (if different than applicant):
Name(s): CP Ventures
Address: 12955 23 Mile Rd
City/State/Zip: Shelby Twp., MI 48315 Email: ljurda@dansexc.com or bbaker@dansexc.com
Phone: 586-254-2040 Cell: Work: Fax: 586-254-2259
RIDER A

LEGAL DESCRIPTION:

Land in the Township of Orion, Oakland County, Michigan, described as:

Parcel 1.
The north 535 feet of lot 11, Mount Judah Farms Subdivision, as recorded in Liber 14, page 57 of plats, Oakland County Records.

Parcel 2.
Lot 11, except the north 535 feet, Judah Farms Subdivision, as recorded in Liber 14, page 57 of Plats, Oakland County Records.

Parcel 3.
Lot 12 and the southerly 588 feet of Lots 13 and 14, Judah Farms Subdivision, as recorded in Liber 14, page 57 of Plats, Oakland County Records.

Parcel 4.
Lots 13 and 14, except the southerly 588 feet, Judah Farms Subdivision as recorded in Liber 14, page 57 of Plats, Oakland County Records.

Parcel Identification Nos.
09-32-400-056, as to Parcel 1.
09-32-400-096 (formerly 09-32-400-057), as to Parcel 2.
09-32-400-095 (formerly 09-32-400-055), as to Parcel 3.
09-32-400-063, as to Parcel 4.

Commonly known as: 2985, 3011 JUDAH ROAD, ORION TOWNSHIP, MI
Application for Appeal
Ordinance No. 99

Case#: 

STATE OF MICHIGAN 
COUNTY OF OAKLAND 

I hereby depose and say that all of the above statements and statements contained in the papers submitted herewith are true and correct.

As the property owner (or having been granted permission to represent the owner as to this application) and on behalf of all owners of this property, I hereby grant the Zoning Board of Appeals members and Township staff permission to perform a site walk on the property, without prior notification, as is deemed necessary.

______________________________
SIGNATURE OF APPLICANT

Brett Baker
PRINTED APPLICANT NAME

______________________________
SIGNATURE OF OWNER

Chris Peyerker
PRINTED OWNER NAME

Sworn and subscribed to me this 10th day of March 2022

______________________________
Notary Public, Oakland County, Michigan

LINDA MARIE-JURDA WENSINK
NOTARY PUBLIC - STATE OF MICHIGAN 
COUNTY OF MACOMB
My Commission Expires May 9, 2023 
Acting in the County of

16 4
April 21, 2022

Dan Durham  
Zoning Board of Appeals Chairman  
CHARTER TOWNSHIP OF ORION  
2323 Joslyn Road  
Lake Orion, MI 48360

RE: Dan’s Excavating, Inc., AB-99-02-22  
Ordinance 99 Permit Closeout Application

Dear Mr. Durham:

We have completed our first review of the application materials for Dan’s Excavating, Inc. Ordinance 99 permit closeout submittal. The submittal package included an application with ownership information and legal description of the property. A mining closure plan last revised December 6, 2021 was also included in the application. The information was reviewed with respect to the Township’s Earth Balancing and Excavation Ordinance, No. 99, and the Township’s Engineering Standards.

The mining closure plan included in the application reflects the current condition of the site per topographic survey conducted by the applicant’s engineer. The property description, as stated on the application, includes lots 11 through 14 of Mt. Judah Farm Subdivision. The property includes parcel numbers 09-32-400-056, -063, -095, and -096. The application and plans have excluded ~2.75 acres south of the existing gas easement which was sold for the Breckenridge development off Brown Road.

Current Site Conditions
The main entrance to the Dan’s Excavating site is located off Judah Road. There is no proposed earthwork associated with the application. Since last year, some minor grading operations related to drainage have been completed. In addition, the applicant applied topsoil, seed and mulch blankets where needed to establish vegetation on the entire site. Vegetation has been well established over the majority of the site. There are a few locations where vegetation was starting to emerge at the time of our visit. The temporary silt fence is no longer needed and will need to be removed prior to final closeout. The construction trailer, earthwork equipment and diesel fuel tank that were previously on-site have all been removed. The site perimeter fence appeared to be good condition. It is our understanding the applicant intends to leave the perimeter fence in place. Consumers Energy had recently cut down and chipped some trees and brush along their gas main easement along the south property line.
Looking west near north end of site – note trailer, fuel tank and equipment are removed
Looking southwest - note retention pond and vegetation in forefront and roof tops from development off Brown Road in background.

**Mining/Filling**
As noted last year, all previously mined sand and gravel pit areas located on the southern slope have been filled and no further mining or filling is taking place on the site. The steep southern slope that previously existed from the gas pipeline down to main surface has been regraded to an approximate 1:4 slope as shown on the mining closure plan. As noted above, permanent soil erosion control measures were installed including the application of topsoil, seed over all disturbed areas. Since last year, a drainage swale has been established along the east property line to direct drainage from the easterly section of the site to the retention pond.
Looking south along east property line - note swale and slope off gas main easement.
In summary, all grading operations are complete on-site. The slope down from the gas main towards Judah Road has been graded at an approximate slope of 1:4. In addition, the plan includes the completion of an on-site retention pond for storm water management near the northern end of the site. The retention pond is necessary since the existing pit towards the south has been filled in. All three (3) retention pond cells have been constructed and restored.

**Dust Control and Public Road Conditions**
At the time of the visit, the site was in good condition. No dust was being created, primarily due to the vegetation established. The concrete driveway entrance off Judah Road was clear of material.

Since grading operations are complete, the applicant will not be renewing the haul route permit with the Road Commission for Oakland County (RCOC). We are unaware of any dust complaints that the Township may have received during the 2021 permit year. It is our understanding that the RCOC will be maintaining Judah Road without the assistance of the applicant since trucking operations are complete.

![Looking north at entrance off Judah Road](image)

**Drainage**
As required, the applicant has constructed a retention pond consisting of three (3) cells towards the northern end of the site. The pond has been sized to accommodate (2) 100-year storm events per township requirements. The drainage area tributary to the pond includes both on-site and a small off-site area to the east as noted on the survey. The culvert located on the east side of the property line discharges into the retention pond. The culvert was visible and appeared to be clear of obstructions. The upstream end of the culvert was dry at the time of our visit and did not appear to be causing any backups. Since last year, an overland relief route/swale has been
constructed to prevent water backing up from the culvert should the water level in the pond exceed capacity. The swale extends from the pond towards Judah Road.

Looking north at the three (3) cell retention pond
Looking south at newly constructed overland relief route from easterly pond area
Previous Violations
This office is not aware of any written ordinance violations over the last year, therefore we defer our comments to the Zoning Enforcement Officers for any pending violations.

Conclusion
In our opinion, the application and supplemental materials, as submitted, appear to be in substantial compliance with Township Ordinance, No. 99, and the Township's engineering standards. We recommend the following items be a condition of any approval for closeout:

1. All silt fence shall be removed from the site and vegetation established within the newly mulch blanketed areas.

Please feel free to contact us with any questions or concerns.

Sincerely,

OHM Advisors

Mark A. Landis, P.E.
Project Manager

cc: Chris Barnett, Supervisor
Penny Shults, Clerk
Donnie Steele, Treasurer
David Goodloe, Building Official
Lynn Harrison, PC/ZBA Coordinator
Al Maisley, Code Enforcer
Chris Cousins, DEI Properties
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: April 18, 2022
SUBJECT: Staff Report for AB-2022-13, Marc McClintock, Unaddressed Parcel on Cushing Street, Parcel #09-03-278-031 (1 parcel north of 484 Cushing Street)

The petitioner is proposing to build a new home with an attached garage on this vacant parcel.

Being the width of the parcel is 65.5 ft. at the front yard setback – the side yard setback requirements are reduced to 8-ft. per side.

The applicant has indicated that the road side, Cushing Street, will be considered the front yard and the rear yard will be the water side.

The petitioner has also indicated that the height of the house will not exceed the maximum 30-ft.

Please contact me if you have any questions.
MOTION OPTIONS

TO:    Charter Township of Orion Zoning Board of Appeals

FROM:  Lynn Harrison, Planning & Zoning Specialist

DATE:  April 13, 2022

RE:    AB-2022-13, Marc McClintock, Vacant Parcel 1 Parcel north of 484 Cushing Street, 09-03-278-031

I am providing motion options for the above-mentioned case.

Please consider and deliberate on each of the criteria listed which the applicant should meet in order for their request to be approved. These are known as the Findings of Fact and need to be included in a motion for either approval or denial. Any additional Findings of Facts should be added to the motion.

The variance language listed was verified by the petitioner/applicant and advertised to the public. As a reminder - due to the language being advertised, the ZBA may lessen the requested deviation(s) but cannot grant more than what was advertised.

If you have any questions regarding the case, please give me a call at the Township ext. 5001.
SAMPLE MOTION FOR

APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2022-13, Marc McClintock, Vacant Parcel 1 Parcel north of 484 Cushing Street, 09-03-278-031, I would move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04

1. A 3-ft. front yard setback variance from the required 30-ft. to construct a new home with an attached garage 27-ft. from the front property line (road side).

2. A 4-ft. side yard setback variance from the required 8-ft. to construct a new home with an attached garage 4-ft. from the side property line (north).

3. A 9.62% lot coverage variance above the allowed 25% for a total lot coverage of 34.62%.

be granted because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

1. The petitioner does show the following Practical Difficulty (Defined: Due to unique characteristics of the property and not related to general conditions in the area of the property):

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone:

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts:

4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings:
Further, based on the following findings of facts, the granting of this variance would not:

1. Impair an adequate supply of light and air to adjacent property due to:

   
   
   

2. Unreasonably increase the congestion in public streets due to:

   
   
   

3. Increase the danger of fire or endanger the public safety due to:

   
   
   

4. Unreasonably diminish or impair established property values within the surrounding area due to:

   
   
   

5. Or, in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:

   
   
   

SAMPLE MOTION FOR
DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2022-13, Marc McClintock, Vacant Parcel 1 Parcel north of 484 Cushing Street, 09-03-278-031, Michael Kiekbusch, 829 Rustic Village Ln., 09-09-302-011, I would move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04

1. A 3-ft. front yard setback variance from the required 30-ft. to construct a new home with an attached garage 27-ft. from the front property line (road side).

2. A 4-ft. side yard setback variance from the required 8-ft. to construct a new home with an attached garage 4-ft. from the side property line (north).

3. A 9.62% lot coverage variance above the allowed 25% for a total lot coverage of 34.62%.

be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

1. The petitioner does not show Practical Difficulty due to (Defined: Due to unique characteristics of the property and not related to general conditions in the area of the property):

2. The following are not exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone:

3. The variance is not 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:

4. The granting of the variance or modification will be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings:
Further, based on the following findings of facts, the granting of this variance would:

1. Impair an adequate supply of light and air to adjacent property due to:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

2. Unreasonably increase the congestion in public streets due to:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

3. Increase the danger of fire or endanger the public safety due to:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

4. Unreasonably diminish or impair established property values within the surrounding area due to:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

5. Or, In any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________
NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $250.00 for a residential application.

Regular meetings of the ZBA are held on the second and fourth Mondays of each month at 7:00 p.m. at the Orion Township Hall, 2323 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

PROOF OF OWNERSHIP MUST BE INCLUDED WITH THIS APPLICATION. Acceptable forms of documentation include: Warranty Deed, Quit Claim Deed, Land Contract, or Option to Purchase with a Copy of the Warranty Deed.

APPLICANT

Name: Marc McClintock
Address: 14462 Debbie Dr.          City/State/Zip: Sterling Heights, MI  48313
Phone:            Cell: 586-864-7580   Fax:           Email: m_mcclintock@yahoo.com

PROPERTY OWNER(S)

Name(s): Marc McClintock
Address: 14462 Debbie Dr.          City/State/Zip: Sterling Heights, MI  48313
Phone:            Cell: 586-864-7580   Fax:           Email: m_mcclintock@yahoo.com

CONTACT PERSON FOR THIS REQUEST

Name: Marc McClintock      Phone: 586-864-7580      Email: m_mcclintock@yahoo.com

SUBJECT PROPERTY

Address: vac Cushing Street, Lake Orion, MI  48362   Sidwell Number: 09-03-278-031
Total Acreage: 0.22   Length of Ownership by Current Property Owner: 0 Years, 10 Months

Does the owner have control over any properties adjoining this site? No

Zoning Ordinance Allowance/Requirement

Deviation requested
Case #: ____________________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. The following variances are being requested to accommodate a new home build:
   Front Setback: 27' from 30' (road side), North Side Setback: 4' from 8' (adjacent to the 20' road easement out to the island).
   Lot Coverage Variance: 34.63% from 25%

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. The custom home design and variances are specific to this parcel and its size. These variances do not impact any other adjacent property.

3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: This will not be detrimental because there is no hazard to the wellbeing of Orion Township resident in asking for variances to accommodate the size of a newly constructed home.

4. Explain how the request is/is not consistent with other properties in the immediate area, please cite examples if possible:
   These variances are less than or equal variances that have been requested and approved by the board for properties located on Cushing Street:
   - AB-221-67: 592 Cushing Street (09-03-278-006) - Approved 12-11-21
   - AB-2021-56: Vacant Parcel (09-03-278-26) South of 576 Cushing Street - Approved 10-11-21

5. Describe how the alleged practical difficulty has not been self-created. This has not been self created as the setbacks were set by Orion Township based on the property being zoned R3 and not the property owner.

6. The topography of said land makes the setbacks impossible to meet because: The side setbacks of 8' and the 25% of land use are smaller then the needed setbacks and land use percentage needed to build the new construction.

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. The square footage of the new construction design does not fit within the current setbacks and percentage of land usage. This would be burdensome because it would require a redesign of the current plan.
8. Have there been any previous appeals involving this property? If so, when? Not that I am aware of on this property.

9. Is this request the result of a Notice of Ordinance Violation? □ Yes □ No

I/We, the undersigned, do hereby request action by the ZBA on the variance or specified matter above, in accordance with Sections 30.06, 30.07, 30.08, 30.10, and 30.11 of the Zoning Ordinance. In support of this request the above facts are provided. I hereby certify that the information provided is accurate and the application that has been provided is complete. As the property owner (or having been granted permission to represent the owner as to this application), I hereby grant the Zoning Board of Appeals members permission to visit the property, without prior notification, as is deemed necessary.

Signature of Applicant: [Signature]  Date: 3/25/22

Print Name: Marc McInlneck

Signature of Property Owner: [Signature]  Date: 3/25/22

Print Name: Marc McInlneck

If applicable:
I the property owner, hereby give permission to ________________________________ to represent me at the meeting.

OFFICE USE ONLY

Zoning Classification of property: ________________________________ Adjacent Zoning: N. S. E. W.

Total Square Footage of Principal Structure: ________________________________ Total Square Footage of Accessory Structure(s): ________________________________

Description of variance(s):
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Date Filed: ________________________________ Fee Paid: ________________________________ Receipt Number: ________________________________
Section 6.04 – Area and Bulk Requirements *(amended 01.05.87, 02.17.04, 02.07.05, 07.16.18)*

Please see the Matrix Chart in Section 6.01 for variations to these requirements by use.

<table>
<thead>
<tr>
<th></th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>14,000 sq. ft.</td>
<td>10,800 sq. ft.*</td>
<td>8,400 sq. ft.*</td>
</tr>
<tr>
<td>Minimum Width of Lot</td>
<td>100 ft.</td>
<td>80 ft.</td>
<td>70 ft.</td>
</tr>
<tr>
<td>Minimum Lot Setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in feet)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard**</td>
<td>40 ft.</td>
<td>35 ft.</td>
<td>30 ft.</td>
</tr>
<tr>
<td>Each Side Yard***</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>35 ft.</td>
<td>35 ft.</td>
<td>35 ft.</td>
</tr>
<tr>
<td>Minimum Floor Area/Unit</td>
<td>1,320 sq. ft.</td>
<td>1,080 sq. ft.</td>
<td>960 sq. ft.</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td></td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>Total Maximum Floor Area of All Accessory Buildings</td>
<td>See Section 27.02, A. 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Height of Structures</td>
<td>30 ft.</td>
<td>30 ft.</td>
<td>30 ft.</td>
</tr>
</tbody>
</table>

*In those instances where public sewers are not provided, a minimum lot area of 12,500 sq. ft. shall be provided.
** Where the front setbacks of two (2) or more principal structures in any block (in the case of platted properties) or within three hundred (300) feet (in the case of unplatted properties) in existence at the time of passage of this Ordinance, within the district zoned and on the same side of the street, are less than the minimum front setbacks required herein, then any building subsequently erected within said block (or three hundred (300) feet) shall not be less and not be greater than the average depth of the front setbacks of the existing structures.
*** Where a garage door or opening faces a side lot line, said side lot setback shall be thirty (30) feet.

Section 6.05 – Sign Regulation *(amended 10.08.98, 02.21.06)*

All signs shall comply with the standards set forth in Orion Township Sign Ordinance No. 153.

Section 6.06 – Tree Preservation Regulations *(amended 08.03.00)*

The tree removal permit requirements apply to developments in these Districts, according to the terms of Section 27.12.

Section 6.07 – Wetland Setbacks *(added 09.17.07)*

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
09-03-278-031  Cushing
1.220 acres = 9,583.2 ft²  25% = 2,395.8

Reduced side yard back = 8 ft (width 65.05)

Front yard setback (rear) Needs to be 30', it is 27'
Side yard setback (north) Needs to be 8', it is 4'
Side yard setback (south) Needs to be 8', is 8', OK
Rear yard setback (water) Needs to be 35', is 35.76', OK

Lot Coverage

House  1,937  1978
Attached Garage 844.12 (under the 75%)
Deck  876 (per note on plans)
Porch 143
Main level Patio 321

3,318 34.62%
The fire department has reviewed the proposed documentation and has no concerns at this time.

Jeffrey Williams, CFPS – Fire Marshal
Orion Township Fire Department - Fire Prevention
3365 Gregory Road Lake Orion, MI 48359
Fax: 248.309.6993

From: Courtney Keisman <ckisman@oriontownship.org>
Sent: Monday, April 4, 2022 8:59 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: ZBA Documents for the April 25, 2022 ZBA Meeting

Mr. Williams.

Hello Jeff. Attached is 1 ZBA case that needs to be reviewed by you for the April 25, 2022 ZBA Meeting.

Thank you,

Courtney Keisman
Clerk III
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5003
W: www.oriontownship.org
MEMORANDUM

TO: ZBA Members

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: April 18, 2022

SUBJECT: AB-2022-10, Zoning Board of Appeals By-Laws

Members, the amended ZBA By-Laws have been reviewed by the ZBA and the proposed changed Articles and Sections have been read at preceding ZBA meetings.

If the draft of the amended By-Laws is acceptable (attached) please provide a motion. Below is a suggested motion to adopt the amended ZBA By-Laws.

A suggested Motion would be:

I move to adopt the amended ZBA By-Laws, draft dated 3/31/2022, and to forward to the Township Board for Approval.

Please let me know if you have any questions.
By-Laws of the Zoning Board of Appeals
Charter Township of Orion, Oakland County, Michigan
ADOPTED __________________, 2022

Article I – Name

The name of this Board shall be the Charter Township of Orion Zoning Board of Appeals (hereinafter ZBA).

Article II – Purpose

The general purpose of the ZBA shall be to build and promote the efficient and coordinated development of the Township through interpretation of zoning regulations, granting variances and substantial justice to petitioners in a manner which will best promote the health, safety, and general welfare of its people.

Article III - Creation and Duties

Section A. The ZBA was created pursuant to the Township Zoning Ordinance as adopted by the Charter Township of Orion Board of Trustees on July 5, 1984, as authorized by Act 184, Michigan Public Acts of 1943, as amended.

Section B. The ZBA shall consist of five (5) members represented by, insofar as it is possible, different professions and occupations who shall be appointed in the following manner:

2. One member of the Township Board appointed by the Township Board for the period of his/her term of office as a member of the Township Board. That member shall not serve as Chairperson of the ZBA.
3. Three (3) additional members selected and appointed by the Township Board for a period of three (3) years from among the electors residing in the unincorporated area of the Township. An additional member shall not be an employee of the Township Board.

Section C. The Township Board may appoint two (2) alternate members of the ZBA for a three (3) year term. An alternate member shall sit as a regular member of the ZBA when:

1. A regular member is absent from or unable to attend a meeting of the ZBA; or
2. A regular member is unable to participate in reaching a decision on a particular case because of a conflict of interest.
Article IV - Officers

Section A. The ZBA shall have a Chairperson, Vice Chairperson, and Secretary.

Section B. The Chairperson shall preside at all meetings, appoint such committees as shall from time to time be deemed necessary with the ZBA’s approval, and perform such duties as may be delegated by the ZBA. He/she shall have a vote on all resolutions and motions of the ZBA.

Section C. The Vice Chairperson shall preside in the absence of the Chairperson.

Section D. The Secretary shall keep a record of the minutes of all meetings, a record of all transcripts, records, plans, etc. brought before the ZBA. Such duties may be performed by an employed recording secretary for the ZBA.

Section E. The ZBA may create and fill such other offices or committees as it may deem necessary.

Article V – Meetings

Section A. All meetings shall be conducted in accordance with the Open Meetings Act. No informal meetings or discussions shall be conducted. The regular meetings of the ZBA shall be held on the second (2nd) and fourth (4th) Mondays of each month at 7:00 p.m. If there are less than three (3) cases on the agenda for such meeting, the Chair shall have the option, but not the obligation, to cancel the meeting. The ZBA shall not begin discussion or take action on a new agenda item after 10:30 p.m. except by a majority vote of the Zoning Board of Appeals present. Meetings shall not extend beyond 11:00 p.m. except to complete whatever item of the agenda is under discussion at that time. However, the ZBA, by unanimous vote, may extend the meeting further to complete other agenda items. Agenda items not acted upon at the time of adjournment shall be placed on the next available agenda at the regular meeting of the ZBA as a date certain. Each regular meeting shall be limited to no more than five (5) cases unless otherwise approved by the Chairperson of the ZBA.

Section B. Special meetings may be called by the Chairperson or by two (2) or more members of the ZBA at such time and place as deemed necessary with a forty-eight (48) hour prior notification. Such notice shall include the purpose of the special meeting. Special meetings shall be posted at the Township Hall at least eighteen (18) hours prior to the beginning of said meeting.
Article V – Meetings (continued)

Section C. As provided by statute, all meetings, regular or special, shall be open to the public. All matters on the agenda shall be considered as scheduled for a public hearing, and any member of the public shall be given an opportunity to be heard on relevant matters concerning the subject of the hearing. The opportunity to present drawings, data, and any other information deemed necessary by the ZBA shall be afforded to anyone seeking to speak on a given agenda item.

Section D. For public hearings, the Township shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than fifteen (15) days before the date of the hearing.

Section E. Notice shall also be given as provided under the Zoning Enabling Act to the owner(s) of property subject of the request and all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Notice as set forth herein is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. Notice as set forth herein shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

Section F. The time allotted for the public to be heard on any separate item of the scheduled agenda or on non-agenda items shall be limited to a time of three (3) minutes, unless this time is extended or reduced by the Chair. No member of the public shall speak twice on any single subject matter unless authorized by the Chair. Should any person be unable to appear, they may submit their comments to the ZBA in writing, addressed to the ZBA Chairman, at the Township Offices.

Section G. Public comments on non-agenda items shall be taken only at the time cited under Article VII, Section C of these By-Laws.
Article V -Meetings (continued)

Section H. The ZBA shall keep a public record of its resolutions, transactions, findings, and determinations in a location within the Township Hall which shall be maintained by the Township Planning and Zoning Director or as otherwise designated by the Township Clerk.

Section I. Notice of the regular meetings for the coming year shall be approved by the ZBA at one of the regular December meetings and forwarded unto the Township Board of Trustees. Such notice shall then be posted in the Township Hall, 2323 Joslyn Road, Lake Orion, Michigan and/or on the Township’s website.

Section J. The Township Board may remove a member of the ZBA for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member absent from three (3) consecutive meetings without a valid excuse shall be reported to the Township Board for nonfeasance, at the discretion of the ZBA.

A ZBA member shall disclose any possible conflict of interest before casting a vote on a matter. Failure to disclose a conflict of interest shall constitute malfeasance in office. Once a member discloses a potential conflict of interest regarding a particular matter, he or she may be disqualified from voting on the matter upon a majority vote of the remaining members of the ZBA.

A conflict of interest exists if any member has a personal or financial interest in the matter or has an interest such that the member cannot be unbiased in the decision-making process. A Board member shall declare a conflict of interest when:

1. A relative or other family member is involved in any request for which the ZBA is asked to make a decision;

2. The ZBA member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant’s company, agency, or association;

3. There is a reasonable appearance of a conflict of interest, as determined by the ZBA member declaring such conflict.
Article VI - Election of Officers

Election of Officers of the ZBA shall be held annually at the first regular meeting of the calendar year following the appointment or re-appointment of ZBA members by the Township Board.

A. The term of office shall be one (1) year commencing immediately upon election and expiring concurrently with the appointment or re-appointment of ZBA members by the Township Board of the subsequent year. The immediate past Chair shall continue to preside at the meeting until the election of the new Chairperson is complete.

B. Should an Officer be unable to complete his term of office, a special election shall be held to fill the remainder of the term. The election shall be held at the first regular meeting after the vacancy has been confirmed by action from the Orion Township Board of Trustees.

Article VII – Rules

Section A. A quorum consists of three (3) or more members. Provided a quorum of three (3) or more members is present, a majority vote of those members present shall be necessary to approve any motion, resolution or recommendation, except for as otherwise required under State law (MCL 125.3603, et. seq.) or any Township Ordinance.

Section B. Expenditures, if any, shall be approved by a majority of the ZBA and shall require approval of the Township Board of Trustees.

Section C. Conduct of a regular meeting shall consist of the following order of business:

1) Open Meeting
2) Roll Call
3) Minutes
4) Agenda Review and Approval
5) ZBA Business
6) Public Comments
7) Communications
8) Committee Reports
9) Member Comments
10) Adjournment
Article VII – Rules (continued)

Section D. During a meeting, the following rules of procedure shall apply to consideration of any item on the ZBA agenda:

1) The Chairperson will introduce the subject.
2) The applicant will present his/her case.
3) Public comments, if any.
4) Board member questions and comments, if any.
5) Applicant response.
6) Motion made and seconded by ZBA members.
7) Chairperson restates the motion and allows for discussion by ZBA members.
8) The motion may be revised or amended following discussion by the ZBA.
9) Once the ZBA members indicated they are ready for the question, whether by positive response to the Chairperson or voting to close debate, the Chairperson asks for the roll to be called.
10) The Secretary will then poll each ZBA member for their vote on the item under consideration.

Section E. All inquiries, applications, or matters requiring official action by the ZBA shall be submitted by 9:00am at least thirty (30) days prior to the next scheduled ZBA meeting. Such submittals shall be made to the employed secretary of the ZBA.

Section F. All proceedings, decisions, and resolutions of the ZBA shall be initiated by motion, and the vote upon motions and resolutions shall be recorded.

Section G. In the event that the applicant is not present, or that sufficient data needed for the ZBA to take action has not been furnished, the ZBA shall postpone the matter to a date certain until the applicant can be present, or the required information has been submitted. Such time shall not exceed ninety (90) days from the original appearance of the business matter on the agenda. The ZBA may deny approval of the matter based upon lack of progress or for any other reason.

Section H. Meeting procedures and conduct shall be generally consistent with Robert’s Rules of Order, unless superseded by The Open Meetings Act (MCL 15.261, et seq.) or these ZBA By-Laws.
Article VIII - Adoption and Amendment

Section A. These By-Laws shall take effect upon adoption by the ZBA and approval by the Township Board of Trustees.

Section B. These By-Laws may be amended at any regular meeting by a majority vote of the members provided that proposed changes have been read at a preceding regular meeting. Amendments shall take effect upon adoption by the ZBA and final approval by the Township Board of Trustees.

Adopted this 28th day of April, 1980
Amended this 23rd day of December, 1985
Amended this 2nd day of March, 1987
Amended this 11th day of May, 1987
Amended this 12th day of January, 1998
Amended this 8th day of April, 2002
Amended this 25th day of November, 2002
Amended this day of ______________, 2022