1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 5-10-2021, ZBA Regular Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2021-05, Robert Cavanagh, 893 Indianwood, 09-03-252-010 (postponed from 4/12/2021 meeting)
      The petitioner is requesting 2 variances from Zoning Ordinance #78 – Zoned R-3
      Article XXVII, Section 27.02 – Lot size over 2.5 acres
      1. A 1,263-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of All Detached Accessory Buildings for a 1,440-sq. ft. pole barn, an 843-sq. ft. pumphouse, a 260-sq. ft. gazebo, and a 120-sq. ft. greenhouse.
      2. A 1,339-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of All Accessory Buildings for a 576-sq. ft. attached portico, a 1,440-sq. ft. pole barn, an 843-sq. ft. pumphouse, a 260-sq. ft. gazebo, and a 120-sq. ft. greenhouse.
   B. AB-2021-22, Robert Ralko, 2809 Walmsley Circle, 09-20-376-017
      The petitioner is requesting 3 variances from Zoning Ordinance #78 – Zoned R-2
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.
   C. AB-2021-23, Timothy Hollis, 2815 Walmsley Circle, 09-20-376-016
      The petitioner is requesting 3 variances from Zoning Ordinance #78 – Zoned R-2
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.
   D. AB-2021-24, Catherine Jolly, 780 Joslyn Road, 09-09-401-008
      The petitioner is requesting 2 variances from Zoning Ordinance #78 – Zoned R-2
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
   E. AB-2021-25, Albert Russel Erskine III, 2805 Walmsley Circle, 09-20-376-018
      The petitioner is requesting 3 variances from Zoning Ordinance #78 – Zoned R-2
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

F. **AB-2021-26, Good Shepherd Lutheran Church, 1950 S. Baldwin Road, 09-20-101-014**

The petitioner is requesting 4 variances from Sign Ordinance 153 Zoned Residential Section 7 – Residential Zoned Areas; Ground Signs

1. A 1-ft. height variance from the allowed 6-ft. for a ground sign to be 7-ft. tall.
2. A 10-sq. ft. sign area variance from the allowed 35-sq. ft. for a ground sign to be 45-sq. ft.
3. A 25.6% EMC sign area variance from the allowed 30% (13.5-sq. ft.) for the EMC portion of a ground sign to be 55.6% (25-sq. ft.) of the total ground sign area (45-sq. ft.).
4. A 1mm EMC resolution variance above the maximum 25mm to allow a maximum EMC resolution of 26mm.

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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, May 10, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS PRESENT:**
- Dan Durham, Chairman
- Don Walker, PC Rep to ZBA
- Derek Brackon, Secretary
- Mike Flood, BOT Rep to ZBA
- Tony Cook, Vice-Chairman

**ZBA MEMBERS ABSENT:**
None

**CONSULTANT PRESENT:**
- Tammy Girling, Director, Planning and Zoning

**OTHERS PRESENT:**
- Douglas McKay
- Richard Bone
- Rod Cotter
- Stephanie Swearingen
- David McNab
- Al Herbert
- Melody Griffin
- Ronald Foley
- Aaron Clark
- B.C. Cotter
- Robert Bean
- Pamela Madden
- Edwin Keez
- Gary Sworek
- Keith Dion
- Mari Herbert
- John Klein
- Scott Heizer

1. **OPEN MEETING**
Chairman Durham called the meeting to order at 7:00 pm.

2. **ROLL CALL**
As noted

3. **MINUTES**
A. 4-12-2021, ZBA Regular Meeting Amended Minutes

Moved by Board member Flood, seconded by Chairman Durham, to approve the minutes as amended, page 12, “applicant should” changed to “applicant shall”.

Motion carried.

4. **AGENDA REVIEW AND APPROVAL**
Moved by Vice-Chair Cook, seconded by Board member Flood to approve the agenda as amended, moving items I. and J. ahead of item D.

Motion carried.

5. **ZBA BUSINESS**

Petitioner withdrew her request on 4/22/2021.

B. **AB-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006**

Chairman Durham read the petitioner’s request as follows:

The petitioner is requesting 1 variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-3

1. A 5-ft. side yard setback variance from the required 10-ft. to build a home addition above an existing attached garage 5-ft from the property line (south).

Ms. Swearingen introduced herself to the Board.

Chairman Durham asked for clarification on whether or not the garage was proposed or existing.

Ms. Swearingen replied existing. The garage had a previous variance received in the 1990’s.

Board member Flood asked if she was increasing the variance or using the same footprint.

Ms. Swearingen replied that it is using the same footprint, they are just going up.

Chairman Durham asked if the garage being built higher would take away from anyone’s lake view across the street.

Ms. Swearingen replied that it will not. It is a marsh area across from the garage and is not buildable.

Vice-Chair Cook asked if her boat was parked on the property and if she plans on moving it.

Ms. Swearingen replied yes. It is her husband’s project and hopefully will be moved this summer.

Vice-Chair Cook asked how she is planning on addressing the existing tree in the front yard. He is asking about the tree that will be in front of the garage.

Ms. Swearingen stated that the tree that would be in the way of a paved driveway will be removed.

Board member Walker asked the petitioner why she needs to do this.

Ms. Swearingen explained the bi-level structure of the house. She explained that they will move the master bedroom on the same floor so they are on the same level as their two children for security reasons.

Chairman Durham asked if there was any public comment on this case.

No public comment was heard.

Chairman Durham asked if they will have adequate egress for the addition.

Ms. Swearingen replied yes, they are looking at a staircase into the garage. The exits would be the main ones and the deck would allow them to get out.

**Board member Walker motioned, and Trustee Flood seconded that in Case #AB-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006, to approve the petitioner’s request for one variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-3, 5-ft. side**
yard setback variance from the required 10-ft. to build a home addition above an existing attached garage 5-ft from the property line (south), because the petitioner did demonstrate the following standards for variances have been met in this case and they set forth facts that show:

1. The petitioner does show a practical difficulty; there is a safety factor in that the petitioner does has two young children and this variance would allow them to sleep on the same floor. In addition, it would not increase the five-foot variance that was already granted for the garage because it is being built directly on top of the garage.

2. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity.

3. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to the improvement in such zone or district in which the property is located.

4. Based on the following findings of fact, granting this variance would not impair an adequate supply of light and air to the adjacent property based on the positioning of the house. It would not unusually increase congestion in the public streets. There is also not going to be an increase of fire, or endanger of the public safety, and it will actually help. Granting the variance also will not reasonably diminish or impair established property values within the surrounding area. This will more likely than not increase property values of everyone around and the neighbors support this construction. Granting this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

C. AB-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks Street, 09-10-204-016

Chairman Durham read the petitioner’s request as follows:
The petitioner is requesting 1 variance from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3 & Article XXVII, Section 27.02 (A)(3)
   1. A 17.1-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 12.9-ft. from the property line along Shady Oaks (east).

Mr. Aaron Clark introduced himself to the Board. He explained the variance request for the construction of a new home. He explained the home construction which will be built on pilings.

Board member Flood commented that they had a letter regarding this case from a resident. They also have a letter from the Planning and Zoning Department saying that at one time this lot was bigger but the Road Commission took 25 feet off of the property in 1988.

Mr. Clark stated that it was a true 70’ by 70’ lot before the Road Commission came through.

Chairman Durham read the resident letter into the record from Benjamin Tong, 395 Shady Oaks, opposing the variance because the vision angle will be obstructed and because the proposed house would obstruct his view of Dollar Bay. Chairman Durham read a letter from the Planning and Zoning Department indicating that the lot does meet the 30 foot requirement.

Board member Flood asked how long the existing garage had been there.

Mr. Clark replied he did not know. It is being demolished.
Board member Flood asked about the existing stake that says garage. He asked if this would be the front of the garage.

Mr. Clark stated that this would be the front of the new garage at the 30 foot setback line. He confirmed that he is increasing the setback from the road side with demolishing the existing garage and the placement of the new structure.

Board member Flood commented that the resident who wrote the letter is across the street and on Lake Orion. He stated that Mr. Clark should be able to enjoy his view of the lake the same as his neighbor.

Chairman Durham commented that Board member Flood is indicating that lake view will not be a problem.

Board member Flood stated that if a two story house is built, yes, the neighbor will not be able to see over to Little Dollar Bay but this neighbor also enjoys full lake rights on Lake Orion. The side setbacks are okay and the lot coverage is okay, the petitioner only needs relief off the corner and this is another practical difficulty. Since he is on a corner lot, he has two front yards.

Chairman Durham asked if there was any public comment.

Vice-Chair Cook moved, seconded by Board member Flood, in Case # AB-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks Street, 09-10-204-016 to grant one variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-3 & Article XXVII, Section 27.02 (A)(3) to grant a 17.1-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 12.9-ft. from the property line along Shady Oaks (east) because the petitioner did demonstrate that the following standards for variances have been met:

1. The petitioner does show the following practical difficulty; at some point years ago, the lot which was originally 70 feet by 70 feet was shortened by 25 feet due to the widening of the road.

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: although the property is a bit smaller than others, it has not been fully developed and at some point was used to house a garage. The difficulty is that although it is a buildable lot, it has never been taken fully advantage of in terms of the actual square footage where a home could have been built.

3. The variance is also 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 findings of fact: the property is a buildable lot, the owner of the property has taken into account that it will require pilings in order to build on that property in order to achieve the enjoyment of that particular piece of property.

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 the improvement in such zone or district in which the property is located based on the following: the owner, while he is going to build a two-story home, the Zoning Board heard from one individual who was concerned about the view of Dollar Bay being block but this same homeowner does have a complete view of Lake Orion so it will not be detrimental to any of the people who have come forward.

5. Based on the following findings of fact, the granting this variance would not impair an adequate supply of light and air to the adjacent property, it would not unusually increase congestion on the public streets. The intersection has been measured and it has been determined that it will not impair the sight distance. There is also not going to be an increase of fire, or endanger of the public safety, and is not going to reasonably diminish or impair established property values within the surrounding area, in fact, it will improve them based upon the size of the house square footage. The
granting of this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.

Board member Flood added that with the removal of the existing garage on that property and the building of the new structure will increase the line of sight on that corner of Dollar Bay and Shady Oaks Drive. Vice-Chair Cook supported the amendment.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

D. AB-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013

Chairman Durham read the petitioner’s request as follows:
The petitioner is seeking 3 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-1
1. A .6-ft side yard setback variance from the required 10-ft. for an existing detached shed to be 9.4-ft from the property line to the east.
2. A 3-ft. side yard setback variance from the required 10-ft. for an existing deck to be 7-ft. from the property line to the east.
Article XXVII, Section 27.02 (A)(8)
3. A 572-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 1,730-sq. ft. attached garage and a 342-sq. ft. existing detached shed.

Mr. Schwarzenberger introduced himself to the Board. He explained the variance request to the Board members.

Chairperson Dunham asked about the existing 342 square foot existing detached shed. He asked if he petitioner constructed this shed and the deck.

Mr. Schwarzenberger replied no.

Chairperson Dunham confirmed that the only new structure is the 572 square foot request above the maximum of 1500 square feet to build a garage.

Mr. Schwarzenberger answered yes.

Vice-Chair Cook asked about the purpose of the property.

Mr. Scharzenberger replied this was their dream home.

Vice-Chair Cook asked if the existing shed was a rental property currently.

Mr. Scharzenberger replied that he doesn’t know; he is going to use it for storage.

Vice-Chair Cook stated that there are some indicator wetland species as you come into the property and that has been disturbed.

Mr. Schwarzenberger asked if he was talking about the invasives.

Vice-Chair Cook replied that they may be invasives, but they are wetland indicators so you have to be very careful to avoid fines. He asked if the roof on the existing home was new.

Mr. Schwarzenberger answered that he did not put the roof on; he just purchased the property in January.
Board member Flood commented that the first variance was only seven inches into the setback. He stated that he is sure the neighbors must appreciate the effort into restoring the property and structures. He asked about the size of the garage.

Mr. Schwarzenberger answered that the garage is 30 feet by 40 feet.

Chairman Durham asked for public comment.

No public comment was heard.

Board member Walker asked if the petitioner had a basement.

Mr. Schwarzenberger replied no.

Board member Brackon moved, and Board member Walker seconded, in case AB-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013 to grant 3 variances from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-1, a .6-ft side yard setback variance from the required 10-ft. for an existing detached shed to be 9.4-ft from the property line to the east, a 3-ft. side yard setback variance from the required 10-ft. for an existing deck to be 7-ft. from the property line to the east and Article XXVII, Section 27.02 (A)(8), a 572-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 1,730-sq. ft. attached garage and a 342-sq. ft. existing detached shed.

The petitioner did demonstrate that the following standards for variances have been met in this case and set forth facts which show the following:

1. Petitioner does show the following practical difficulties and unique circumstances of this particular piece of property: it is on the lake, it has existing wetlands which need to be taken into account, there is no availability to have any basement which some of his neighbors enjoy and he does not have a current garage.

2. There 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 such as: petitioner does not have the ability to build any type of basement and he does not currently have a garage.

3. The variances are necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zone or vicinity based on the following fact: petitioner has no basement for storage, no garage for storage which he wants as all of his neighbors have.

4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to property or to improvements as such zone or district in which the property is located based upon the following fact: based on the drawings, the petitioner will not disturb the wetlands any further, there has not been any neighbors that have said they do not want this to happen and will not affect them in any way.

5. This variance will not impair an adequate supply of light or air to adjacent property owners and will not reasonably impact congestion of traffic in the public streets. Variances will not increase the fire danger or endanger the public safety.

6. The granting of the variance is not going to reasonably diminish or impair established property values within the surrounding area, in fact, given the surrounding property values and what the petitioner is doing to improve the property, it will probably increase both his and the neighbor's property values. Granting this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.
Chairman Durham read a letter of support from Leslie Cole, 360 Gan Eden Drive.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

E. AB-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Joslyn Ct., 09-21-251-004

Chairman Durham read the petitioner's request as follows:
The petitioner is seeking 2 variances from Zoning Ordinance #78 Zoned SP-1

Article XXI, Section 21.05
1. A 31.23-ft. rear yard setback variance from the required 40-ft. for a building to be 8.77-ft. from the rear property line (north).
2. A 7.82-ft. side yard setback variance from the required 20-ft. for a building to be 12.18-ft. from a side property line (east).

Mr. Keith Aldridge introduced himself to the Board. He explained his variance request.

Chairman Durham asked if the sale of the property was contingent on success of the request.

Mr. Aldridge replied yes. The owners of Yates will not move forward until the requests are granted and they can split the property.

Board member Flood stated that the Planning Commission has approved all of the requests but they cannot approve this variance because it is a nonconforming property. He commented on the historical nature of the property. He asked if they also did this with the church property.

Mr. Aldridge replied that they converted it to a condominium back in 2014. He wants to make another condominium parcel with Yates Cider Mill.

Board member Flood confirmed that this property is the only property in this zoning.

Chairman Durham asked for any public comment.

No public comment was heard.

Vice-Chair Cook asked if this sale includes the parking lot.

Mr. Aldridge replied yes. The parking lot is split right down the middle. Woodside owns the south half and he owns the north half which is attached to Yates Cider Mill. He will be selling his half of the parking lot.

Board member Flood moved, and Board member Walker seconded, in Case # AB-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Joslyn Ct., 09-21-251-004 to approve 2 variances from Zoning Ordinance #78 Zoned SP-1, Article XXI, Section 21.05, a 31.23-ft. rear yard setback variance from the required 40-ft. for a building to be 8.77-ft. from the rear property line (north) and a 7.82-ft. side yard setback variance from the required 20-ft. for a building to be 12.18-ft. from a side property line (east). The petitioner did demonstrate that the following standards for variances have been met in this case as he set forth facts in this case as follows:

1. Petitioner does show the practical difficulties in that the facility was built back in 1920 and the petitioner is trying to sell a portion of that property and which would not meet today’s standards

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: this
3. The variances are necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zone or vicinity based on the following fact: this is very similar to what Orion did with the Woodside Church which was approved by the Township Board to be converted to a condominium.

4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to property or to improvements as such zone or district in which the property is located based upon the following fact: the petitioner has already been before the Planning Commission who approved the lot split. The petitioner now needs the variances approved to complete the transaction.

5. Based on the following findings of fact, this variance will not impair an adequate supply of light or air to adjacent property owners and will not reasonably impact congestion of traffic, will not increase the fire danger or endanger the public safety, will not reasonably diminish or impair established property values within the surrounding area and granting this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township of Orion.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

Chairman Durham asked all public in the room to show each other respect due as residents of the Township trying to solve the problem in front of the Board.

Director Girling explained the reasons for the changed variances. Calling the case would be as it was advertised but upon further analysis of the case, there were a number of units that had a different setback for distance between them which is four of the five cases being heard this evening. On the first case, it was found on the site plan documents that the distance between buildings was 20 feet. The applicant’s formal request is what is shown on the agenda, but in actuality when they calculate with 20 feet between, the variance that he is requesting is less because he doesn’t need as much space between the buildings.

Chairman Durham asked if he should read the adjusted numbers in.

Director Girling replied that he should read what is advertised and what is on the agenda, but with the understanding that a lesser variance is needed.

F. **AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidwell numbers 09-04-402-033 & 034**

Chairman Durham read the petitioner’s request as follows:
The petitioner is requesting 4 variances from Zoning Ordinance #78

1. A 9.39-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20.61-ft from the adjacent condominium unit (south).
2. A 9-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21-ft from an adjacent condominium unit (north).
3. A 1-ft. rear yard setback variance from the required 30-ft. to construct unit 33, 29-ft from the rear property line
4. A 1.5-ft. rear yard setback variance from the required 30-ft. to construct unit 34, 28.5-ft. from the rear property line.

Mr. Dan MacLeish introduced himself to the Board. The first variance is the side yard setback of 9.39 feet and it is now .69 feet. He confirmed that when they reviewed the original PUD, that was originally a 20
foot setback. Units 33 – 38 are six contiguous sites that are vacant. He stated that they started at the southernmost point of unit 33 and started working north.

Chairman Durham asked if the second variance is needed now.

Mr. MacLeish replied no. He stated that #3 is needed for the back of the proposed deck. He stated that for unit 34, they are asking for a 1.5 foot variance. He stated that he has pictures of adjacent units.

Board member Brackon asked how the size of the proposed units compare to the existing units.

Mr. MacLeish replied that the proposed are 2000 square feet and it is like what is there now which is 1800 square feet to 2300 square feet. They are proposing a one-story ranch condominium.

Board member Brackon asked if these lots were smaller or did they also get variances for the existing units.

Mr. MacLeish replied that this site has a lot of history and he is not sure how they were originally built. He stated that they explored the sewers available. He explained the topography of the site. There are natural reasons why the units were built the way they were.

Board member Brackon stated that it is a concern of residents that what is being proposed is too large for the existing lots. He asked what is the purpose of them being that big as opposed to building something smaller.

Mr. MacLeish stated that they looked at a product that could sell. The proposed units have a front door where most of the existing have side doors. They have their own landscaping company and have plenty of privacy between the decks. They are looking at a price point of $500,000 to start.

Board member Brackon asked if the proposed fit into the plan and they will not stand out in any way.

Mr. MacLeish stated that they staked all the corners and have examined how the placement would fit.

Chairman Durham asked if all of the proposed are being built to one set of plans.

Mr. MacLeish replied that there are two versions, these and a larger version which they are not bringing to the Board.

Chairman Durham asked if they could shrink it down a little more and not need variances.

Mr. MacLeish stated that they tried that but it gets to the point where it doesn’t work with the design, especially when you consider wheelchair accessibility.

Board member Walker asked if they had considered every square foot of the property where these units will be built.

Mr. MacLeish replied yes. They looked at additional property acquisition and had engineers and architects look at the plan so they would not have to go to the Board.

Board member Walker stated that when they add them all up, there are 25 variances.

Board member Flood stated that any rendering by this Board is appealable by State law. He stated that some of these requests are so minor and they should be addressed by the petitioner. Board member Flood stated that they had a letter from a neighbor and a report by the Fire Department.

Board member Brackon read a letter from Barbara Unger opposing the variance requests based on the fact that the units proposed are too large for the property. He stated that they also have a letter from the
Fire Department, Jeff Williams, Fire Marshall, dated 5/10/2021. He read the letter aloud to the Board including all recommendations.

Mr. MacLeish stated that he was aware of the letter from the Fire Department. He stated that they took four feet off of these units from what they have built in the past but they wanted to keep hallways where they could be usable. They were trying to keep the units accessible for wheelchairs.

Director Girling stated that she clarified with the Fire Chief regarding his comments. She stated that if you have 2 feet between the buildings or 60 feet between the buildings, the fire suppression is related to the number of units, it has nothing to do with the spacing.

Mr. MacLeish provided color pictures for the Board members to view.

Chairman Durham asked for public comment.

Ron Foley, Association President, stated that many of the buildings in the development are not in the building envelopes. This is not the fault of Mr. MacLeish. He suggested that the new developments could have landscaping on the side so the residents would not look out to a brick wall. They desperately need these units built out and would help the community sustain itself and would help the budget. He stated that he is one of the original owners. He stated that he understands the residents’ concerns because he would not want a unit 13 feet from his however, some units are closer than that now.

Chairman Durham reiterated that Mr. Foley was saying that done correctly, this would be beneficial for the community.

Mr. Foley stated that he understands that many residents of the development have gotten used to an open lot next to them but they need to know that eventually, something is going to be built there.

Mr. Richard Bone, 50 Burniah Lane, presented photographs to the Board members and he explained these pictures. He stated that these units are proposed to be built next to his residence and he is opposed because it will depreciate the value of the units. He stated that they have asked for elevation drawings but they have not been received so they do not know what the finished products will look like. Mr. Bone continued to express his opposition to the variance requests. When he moved in, they were given the assurance that similar buildings would be built and that would be Tudor type buildings. These are far from Tudor buildings; they are ranch homes with hip roofs.

Board member Brackon asked what lot number Mr. Bone lives in.

Mr. Bone replied #46.

Vice-Chair Cook asked what the existing basement is from.

Mr. Bone stated that the basement was dug some time ago and then it sat during litigation. It was eventually filled it, but the basement is still there.

Board member Flood stated that this was the first PUD ever done in Orion Township and he can understand why it wasn’t built why it was supposed to be built. He stated that in a PUD, they can tell the developer what is to be built regarding design and what materials are approved. This is required for the PUD aesthetics. He asked were those previous lots plotted in the previous PUD. He stated that he believes the Township Attorney needs to get involved in this before this Board moves forward. This is his recommendation. This would be fair to both the applicant and the residents.

Mr. Bone agreed.

Board member Flood stated that they have to go through the Township Board to alter a PUD.
Director Girling stated that they have had numerous text amendments to the PUD since it was written and the current ordinance says that although the PUD does not go to the ZBA, this does not stop an individual property owner from coming to the ZBA. This is a builder that has bought the remaining lots, not the developer.

Board member Flood reiterated that he would like the Township Attorney to advise him how to proceed.

Board member Walker suggested that they should get all of the input, but he is not sure a decision should be made today on this.

Mr. Foley provided the history behind the abandoned foundation in the development. He stated that the pictures shown to the Board were not accurate.

Mr. Tom Wienner, 41 Burniah, stated that what is being proposed is 33% larger than the foundation that is there and he explained his opposition to the variance requests. He stated that they are suggesting something out of character for the neighborhood. These variances are not necessary, reasonable or appropriate. He agreed with Board member Flood regarding having it being reviewed by an attorney.

Mr. Doug McKay, 132 Burniah Lane, stated that he has been there for many years. He stated that the development has to be built out. People get used to looking at vacant lots, and get used to no one next to them or across from them. He stated that porches are 10-12 feet from each other now. If these units are not built out, revenue will stop coming in and there will be less funding for HOA. He provided comments about all of the developers that have worked with this development. The Association is behind these requests.

Carol Brock, 101 Burniah Lane, explained her opposition to the variance requests.

Al Herbert, 32 Burniah, explained his opposition to the variance requests and concurred with Mr. Bone.

Jackie Bone explained where they obtained the proposed building plans. She stated that pictures came from Melody from MacLeish Building.

John Klein, 33 Burniah, stated that the whole subdivision is two story buildings and the proposal is for one-story ranch. A two-story building would fit better than a ranch.

Chairman Durham asked Mr. MacLeish for his comments.

Mr. MacLeish stated that some of the people speaking are misinformed.

Board member Brackon asked if two story buildings contemplated for these lots.

Mr. MacLeish stated that in today’s market, that is a tough sell.

Board member Flood asked if they are allowed to build a ranch building according to the approved PUD documents.

Mr. MacLeish answered it is not specified in the documents.

Board member Flood stated that this is why he wants an attorney’s opinion. They always advise developers to go to the HOA meetings and work with the residents.

Mr. MacLeish confirmed the location of the rear stake. The existing basement is the same grade as the resident that spoke. He stated that he doesn’t want to come into a place and have it get hostile. He has no problem having a meeting with the residents. He commented on his willingness to work with the Board and residents.
Chairman Durham explained the options for the petitioner.

Board member Walker commented that they had this same situation a couple of weeks ago. He suggested that Mr. MacLeish meet with a committee formed by the residents.

Mary Alexander, 93 Burniah, stated that she is in the process of selling her condominium. She had three cash offers and she has a two-story. She hopes they can reach a compromise.

Board member Flood stated that the Board wants everyone to be successful. They are trying to do the best they can for everyone involved.

Mr. Dan MacLeish, property owner, stated that the reason the setbacks are not done to code in the past is everything was done by hand. He explained his history in the construction business and his current business dealings in Rochester Hills. He stated that they will do their utmost to satisfy the neighbors.

Board member Flood stated that this is the items that the Planning Commission goes through establishing the PUD. He provided historical information regarding another development in the Township.

Chairman Durham stated that there variances on the table and they see the concerns expressed. They have also heard concerns expressed by the Board.

Mr. MacLeish responded that they would like to postpone to June 14, 2021. He will get in touch with the HOA and set up a day and time to meet. He will provide the plans and color renderings so everyone will get to see them.

Vice-Chair Cook stated that most of the discussion centered around Item H, units 47 and 48.

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

G. AB-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidwell numbers 09-04-402-035 & 036

The petitioner is seeking 3 variances from Zoning Ordinance #78

1. A 9-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21-ft from an adjacent condominium unit (south).
2. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from an adjacent condominium unit (north).
3. A .5-ft. rear yard setback variance from the required 30-ft. to construct unit 36, 29.5-ft. from the rear property line.

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.
Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

**Roll call vote was as follows:** Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

**H. AB-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037 & 038**

The petitioner is seeking 4 variances from Zoning Ordinance #78

1. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from an adjacent condominium unit (south).
2. An 8.66-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21.34-ft from an adjacent condominium unit (north).
3. An 8.5-ft. rear yard setback variance from the required 30-ft. to construct unit 38, 21.5-ft. from the rear property line.
4. A .5-ft. rear yard setback variance from the required 30-ft. to construct unit 37, 29.5-ft from the rear property line.

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

**Roll call vote was as follows:** Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

**I. AB-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidwell numbers 09-04-402-041 & 042**

The petitioner is seeking 2 variances from Zoning Ordinance #78

1. A 2.5-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 27.5-ft from an adjacent condominium unit (south).
2. A 2.6-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 27.4-ft from an adjacent condominium unit (north).

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.
Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

J. **AB-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidwell numbers 09-04-402-047 & 048**

The petitioner is seeking 4 variances from Zoning Ordinance #78
1. A 9.85-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20.15-ft from an adjacent condominium unit (south).
2. An 8.35-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21.65-ft from an adjacent condominium unit (north).
3. A 10-ft. rear yard setback variance from the required 30-ft. to construct unit 48, 20-ft. from the rear property line.
4. A 17.5-ft. rear yard setback variance from the required 30-ft. to construct unit 47, 12.5-ft. from the rear property line.

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

Director Girling asked if Board member Flood was asking her to seek the Township Attorney’s opinion on these cases.

Board member Flood moved, and Chairman Durham supported, to obtain the Township Attorney’s opinion in cases: AB-2021-15, AB-2021-16, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19 on the condominium documents, agricultural requirements, and if the lots were already plotted and it is suggested that he attend the June 14, 2021 meeting.

Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

6. **PUBLIC COMMENT**
None

7. **COMMUNICATIONS**
A. Date Certain Memo
   Director Girling confirmed an upcoming training opportunity which will be forwarded to the Board members.

8. **COMMITTEE REPORTS**
None

9. **MEMBERS’ COMMENTS**
None Heard.
10. **ADJOURNMENT**
Moved by Board Member Flood, seconded by Chairman Durham to adjourn the meeting at 9:19 pm.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

SUBJECT: Staff Report for AB-2021-05, Robert Cavanagh, 893 Indianwood

This case was postponed from the April 12, 2021 Meeting so that the applicant could meet with surrounding residents to discuss their concerns.

The applicant has since notified this department that the gazebo is smaller than originally estimated. It is 180.5-sq. ft. rather than 260-sq. ft. calculated in the variance request. The motion options have been revised to reflect that decrease.

Below is the information from the Staff Report you were provided for the April 12, 2021 ZBA meeting.

The existing property is 10.55 acres. The surrounding properties on Fernhurst average .177 acres. There are two adjoining properties to the southwest – one is 1.236 acres and the other is 3.40 acres.

The applicant is seeking variances for maximum floor area of all detached accessory buildings and attached accessory buildings to bring them into compliance with the ordinance.

The pump house was existing when the applicant purchased the property and is restoring it by adding a roof.

We are considering the existing greenhouse a detached building as it is secured to the ground and therefore its square footage needs to be included in the maximum square footage calculations.

The portico is attached to the house and acts as a covering to the home’s entrance. It is being counted as an attached accessory structure.

There is no issue with lot coverage or setbacks.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

RE: AB-2021-05, Robert Cavanagh, 893 Indianwood

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. Also, if more information is needed, a motion to postpone would be in order.

The variance language listed was 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 motion is to approve, conditions can be added to the motion if appropriate. If the variances are modified, use the modified numbers in the motion. **

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-2021-05, Robert Cavanagh, 893 Indianwood, 09-03-252-010, I move that the petitioner’s request for:

2 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.02 – Lot size over 2.5 acres

1. A 1,263-sq. ft. 1,183.5-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of All Detached Accessory Buildings for a 1,440-sq. ft. pole barn, an 843-sq. ft. pumphouse, a 260-sq. ft. 180.5-sq. ft. gazebo, and a 120-sq. ft. greenhouse for a total of 2,583.5-sq. ft.

2. A 1,339-sq. ft. 1,259.5-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of All Accessory Buildings for a 576-sq. ft. attached portico, a 1,440-sq. ft. pole barn, an 343-sq. ft. pumphouse, a 260-sq. ft. 180.5-sq. ft. gazebo, and a 120-sq. ft. greenhouse for a total of 3,159.5-sq. ft.

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

Please be specific how the petitioner meets this criteria

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-2021-05, Robert Cavanagh, 893 Indianwood, 09-03-252-010, I move that the petitioner's request for:

2 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.02 – Lot size over 2.5 acres

1. A 1,263-sq.-ft. 1,183.5-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of All Detached Accessory Buildings for a 1,440-sq. ft. pole barn, an 843-sq. ft. pumphouse, a 260-sq.-ft. 180.5-sq. ft. gazebo, and a 120-sq. ft. greenhouse for a total of 2,583.5-sq. ft.

2. A 1,339-sq.-ft. 1,259.5-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of All Accessory Buildings for a 576-sq. ft. attached portico, a 1,440-sq. ft. pole barn, an 843-sq. ft. pumphouse, a 260-sq.-ft. 180.5-sq. ft. gazebo, and a 120-sq. ft. greenhouse for a total of 3,159.5-sq. ft.

be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

Please be specific how the petitioner does not meet this criteria

1. The petitioner did not demonstrate Practical Difficulty because:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zoning because:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

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:
Subject: AB-2021-05, Robert Cavanagh, 893 Indianwood, 09-03-252-010 SQ Ft Adjustment

Hello Ms. Harrison and Mr. Goodloe,

I measured the Gazebo I started to build and it is smaller than I estimated for the numbers on my requested variance.

The Length of each side of the 6-sided gazebo is actually 8'4" long NOT 10'0". Using the formula for a hexagon:

\[ A = 180.42 \]

I originally estimated the sides to be 10Ft long which calculated to be 260 Square Feet.

I apologize, for over estimating the square footage of the structure by 80 Square Feet.

Best regards / Mit den besten Grüßen / Saludos cordial,

-Rob

Robert P. Cavanagh
893 Indianwood Road
Lake Orion Michigan 48362
248-390-7204
10.55 acres; Zoned R-3

<table>
<thead>
<tr>
<th>Detached Structures</th>
<th>Allowed Square Footage 1,400</th>
<th>Allowed Square Footage 1,400</th>
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<tr>
<td>Pole Barn</td>
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<tr>
<td>Pumphouse</td>
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<tr>
<td>Gazebo</td>
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<tr>
<td><strong>Variance</strong></td>
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<td>Portico</td>
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<td><strong>1,259.5</strong></td>
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</table>
DOCUMENTS FROM APRIL 12, 2021 ZBA MEETING
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

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 $200.00 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, 2525 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: Robert P. Cavanagh
Address: 893 Indianwood Rd City/State/Zip: Lake Orion, MI 48362
Phone: 248-390-7204 Cell: Fax:
Email: CAVAVAR@COMCAST.NET

PROPERTY OWNER(S)
Name (s): SAME AS ABOVE
Address: _______________________________ City/State/Zip: _______________________________
Phone: _______________________________ Cell: _______________________________ Fax: _______________________________
Email: _______________________________

CONTACT PERSON FOR THIS REQUEST
Name: Rob Cavanagh Phone: 248-390-7204 Email: CAVAVAR@COMCAST.NET

SUBJECT PROPERTY
Address: 893 Indianwood Road Sidewall Number: 09-03-252-010 R3
Total Acreage: ___________ Length of Ownership by Current Property Owner: 4 Years, 7 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. **VARIANCE REQUEST IS FOR A GAZEBO (ACCESSORY STRUCTURE) OF LESS THAN 260 SQ. FT. & RESTORATION OF EXISTING PUMP HOUSE BY PUTTING NEW TOP & ROOF ON, 843 SQ. FT. (GREENHOUSE OF 120 SQ. FT. 10 X 12').**

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. **UNIQUELY LARGE PIECE OF PROPERTY ALLOWS YOU TO BUILD GAZEBO & ROOF FOR PUMP HOUSE AND NOT BE SEEN BY NEIGHBORING PROPERTIES AT ALL WHEN LEAVES ARE ON TREES.**

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: **IS NOT DETRIMENTAL IN ANY WAY. NEW ROOF ON PUMP HOUSE IMPROVES THE LOOK AND GAZEBOS ARE BEAUTIFUL PLACES WHERE FRIENDS AND NEIGHBORS CAN RELAX AND BE HAPPY AND GATHER.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **PROPERTY IS MUCH LARGER THAN ALL SURROUNDING PROPERTIES IN THE AREA.**

5. Describe how the alleged practical difficulty has not been self-created. **PUMP HOUSE WAS EXISTING ON PROPERTY WHEN PURCHASED IN 2016.**

6. The topography of said land makes the setbacks impossible to meet because: **NO SETBACK ISSUE.**

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.
Case #: ........................................

8. Have there been any previous appeals involving this property? If so, when? [Yes, June 12, 2018]

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: ___________________________ Date: February 9, 2021

Print Name: Robert P. Cavanagh Jr

Signature of Property Owner: ___________________________ Date: February 9, 2021

Print Name: Robert P. Cavanagh Jr

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: ___________________________
6. Household animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical system components that could, or are likely to, produce noise, odor, or other nuisances shall not be located adjacent to an adjoining property owner’s living or sleeping area where windows and/or doors would be exposed to the nuisance.

It is the intent of these provisions to place the responsibility of abating or controlling nuisances on the owner of the lot where the nuisances are produced, rather than on the adjoining neighbors.

7. Accessory buildings or structures are not to be used for commercial operations other than home occupations, as defined in Article II, Section 2.01.

8. The total of all accessory buildings or structures in a single-family residentially zoned district or on a parcel used for a single-family dwelling, except as modified in Paragraph 9, shall not exceed the following (amended 11.28.85):

<table>
<thead>
<tr>
<th>LOT SIZE</th>
<th>MAXIMUM FLOOR AREA OF DETACHED ACCESSORY BUILDINGS</th>
<th>MAXIMUM FLOOR AREA OF ATTACHED ACCESSORY BUILDINGS</th>
<th>TOTAL MAXIMUM FLOOR AREA OF ALL ACCESSORY BUILDINGS *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1/2 acre</td>
<td>750 sq. ft.</td>
<td>75% of the principal structure</td>
<td>1,150 sq. ft.</td>
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<tr>
<td>1/2 to 1 acre</td>
<td>900 sq. ft.</td>
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<td>1,300 sq. ft.</td>
</tr>
<tr>
<td>1 to 2.5 acres</td>
<td>1,000 sq. ft.</td>
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<td>1,500 sq. ft.</td>
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<tr>
<td>Over 2.5 acres</td>
<td>1,400 sq. ft.</td>
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<td>1,900 sq. ft.</td>
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</tbody>
</table>

* Includes the combined floor area of each story of the structure.

9. The total area of all accessory buildings or structures on a single-family residentially zoned parcel shall not exceed the above noted area, except in the following cases after consideration and approval by the Zoning Board of Appeals (amended 11.28.85 06.15.15):

   a. On single-family residential lots, a variance may be sought to permit increased accessory building, structure or use, provided all of the following conditions are met:

      i. The accessory building or structure is aesthetically compatible with, and constructed of the same color as the principal residential building or structure.

      ii. The accessory building or structure, as well as the principal residential building or structure, can be accommodated on the parcel and together cover no more than twenty percent (20%) of the lot area in the Suburban Farms (SF), Suburban Estates (SE), or Suburban Ranch (SR) Zoning Districts or twenty-five percent (25%) of the lot area in the Residential 1, 2, or 3 (R-1, R-2, R-3) Zoning Districts.

      iii. The principal residential building or structure contains at least the minimum floor area of living space as required for the specific zoning district and as set forth in the specific zoning district of this Zoning Ordinance. (amended 07.16.18)

      iv. The accessory building or structure is used for the indoor storage of items that are permitted to be stored in a rear or side yard, but that could be unsightly if such were done.

   b. On parcels of more than five (5) acres in size used for agricultural purposes, a variance may be sought from the Zoning Board of Appeals to permit additional accessory buildings or structures for the purpose of storing agricultural implements, equipment, products, livestock, and similar items.
AB-2021-05, Robert Cavanagh, 893 Indianwood, 09-03-252-010

10.55 acres; Zoned R-3

<table>
<thead>
<tr>
<th>Detached Structures</th>
<th>Allowed Square Footage 1,400</th>
<th>Allowed Square Footage 1,400</th>
<th>Allowed Square Footage 1,400</th>
</tr>
</thead>
<tbody>
<tr>
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<td>1,440</td>
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<td></td>
</tr>
<tr>
<td>Pumphouse</td>
<td>843</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gazebo</td>
<td>260</td>
<td></td>
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<tr>
<td>Greenhouse</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>2,663</td>
<td></td>
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</tr>
<tr>
<td>Variance</td>
<td>1,253</td>
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<table>
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<tr>
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<tr>
<td>Total</td>
<td>3,239</td>
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<td></td>
</tr>
<tr>
<td>Variance</td>
<td>1,339</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Existing Well House New Roof Project:
The Well house was built in the 1970's. Over the years several trees fell on the roof and ruining its integrity. This project's goal is to rebuild to original specifications and add a garage door.
- New Engineered Wood Trusses 6/12 Pitch @ 24° O.C.
- Simpson Strong Ties wall ties to each rafter
- 21x12x5-1/4" x PSL 2.0E Beam above garage door opening
- Standing Seam® Metal Roof On #50 Felt
- 1/2" GDX Fir Plywood Sheathing
- 5/8" FG Green Gypsum Board ceiling
- Styrofoam thermal barrier at each rafter space or equal
- 15" Blown Cellulose Insulation R-43
- 12" Overhangs
- Ridge Vent balanced w/ Aluminum Soffit Vents
- New 20" insulated Garage door
- New 36" x 7' entry door
AB - 2021-05  873 Indian wood  10.55 acres
R-3

Front yard setback  30'  ok
Side yard setbacks  10'  ok
Rear yard setback  35'  ok

House  1,440 - Sq. ft.
Attached Porch  576 - Sq. ft.
Pole Barn  1,440 - Sq. ft.
Pumphouse  843 - Sq. ft.
Gazebo  260 - Sq. ft.
Greenhouse  120 - Sq. ft.

4,679 - Sq. ft.  1st coverage  ok

Max. Floor area of all detached structures = 1,400 sq.
Max. Floor area of all accessory structures = 1,900 sq.
Pole Barn  1,440
Pumphouse  843
Gazebo  260
Greenhouse  120

2,663 sq.
- 1,400
1,263 variance

3,239 sq.
- 1,700
1,339 variance
Square footage 893 sq ft - unnumbered

House 740 sq ft, 2-story, 30' x 20'
1440 sq ft

Porch 576 sq ft, 1-story, 24' x 24'

Pole Barn 1440 sq ft, 1-story, 20' x 48'

Pump House 843 sq ft, 1-story, 40' x 19 6' = 780
11' x 5' = 55
64 3 sq ft

Gazebo 6-sided length 10' = 260 sq ft

Greenhouse 120 sq ft, 1-story, 10' x 12'
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 14, 2021
SUBJECT: Staff Report for AB-2021-22, Robert Ralko, 2809 Walmsley Circle

Some of the petitioner’s neighbors have been before you in recent months seeking similar variances. Those neighbors and the petitioner live in the Keatington Subdivision. As in those cases:

Because the property has property lines along Walmsley Circle and Baldwin Road, it is considered to have two front yards and therefore has two front yard setbacks. In this case it is 35-ft. from Walmsley Circle and 35-ft. from Baldwin Road. Also, the fence is proposed to run the length of Baldwin Road and end at the property lines to the north and south so the request includes variances to have 0-ft. side yard setbacks from the required 10-ft. on both sides.

Included in the packet is a letter from the Keatington Home Owner’s Association indicating their approval of a 6-ft. fence as long as the Township approves the variances.

Please keep in mind that if you choose to approve a variance or variances from the side property lines to the north and south, that would potentially allow the petitioner to run a 6-ft. fence the length of the side property lines 0-ft. from the property line. If you approve and you only are allowing the variance(s) for a 6-ft. fence along the Baldwin Road property line – it should be indicated as such in the motion – example – “the setback variances from the property lines to the north and south of said property is for the 6-ft. fence that runs along Baldwin Road only.”

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

RE: AB-2021-22, Robert Ralko, 2809 Walmsley Circle, 09-20-376-017.

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. Also, if more information is needed, a motion to postpone would be in order.

The variance language listed was 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 motion is to approve, conditions can be added to the motion if appropriate. If the variances are modified, use the modified numbers in the motion. **

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-2021-22, Robert Ralko, 2809 Walmsley Circle, 09-20-376-017, I move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 - Zoned R-2
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

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:

Please be specific how the petitioner meets this criteria

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-2021-22, Robert Ralko, 2809 Walmsley Circle, 09-20-376-017, I move that the petitioner’s request for:

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

Please be specific how the petitioner does not meet this criteria be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zoning because:

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 $200.00 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, 2525 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: Robert A. Ralko
Address: 2809 Walmsley Circle
City/State/Zip: Lake Orion/MI/48360
Phone: ___________________________ Cell: 248-767-9017 Fax: ___________________________
Email: robert.ralko@gmail.com

PROPERTY OWNER(S)
Name(s): Robert A. Ralko
Address: 2809 Walmsley Circle
City/State/Zip: Lake Orion/MI/48360
Phone: ___________________________ Cell: 248-767-9017 Fax: ___________________________
Email: robert.ralko@gmail.com

CONTACT PERSON FOR THIS REQUEST
Name: Robert Ralko Phone: 248-767-9017 Email: robert.ralko@gmail.com

SUBJECT PROPERTY
Address: 2809 Walmsley Circle
Sidwell Number: 09-20-376-017
Total Acreage: 1.31 Length of Ownership by Current Property Owner: 3 Years, 8 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. INSTALL IN LINE WITH NEIGHBORS FENCES ALL BEING INSTALLED AT THE SAME TIME WITH THE SAME CONTRACTOR 143.1 FEET LONG AND 6 FEET HIGH

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. N/A

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: SAME AS ALL THE NEIGHBORS

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: SAME AS ALL THE NEIGHBORS

5. Describe how the alleged practical difficulty has not been self-created. N/A

6. The topography of said land makes the setbacks impossible to meet because: N/A

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. N/A
Case #: __________________

8. Have there been any previous appeals involving this property? If so, when?  
   No

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:  ___________________________  Date:  4-6-2021

Print Name:  Robert A. Ralko

Signature of Property Owner:  ___________________________  Date:  4-6-2021

Print Name:  Robert A. Ralko

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:  143.1 x 6 F.E.F.  
Total Square Footage of Accessory Structure(s):  148.1 x 6 F.E.F.

Description of variance(s):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Date Filed:  ___________________________  Fee Paid:  ___________________________  Receipt Number:  ___________________________
Article XXVII

27.01 Nonconformities

construction on the rebuilding project is begun and diligently carried on within a reasonable time after the excavation, demolition, or removal of the theretofore existing building.

K. Administrative Nonconformities.

A structure or use which is administratively nonconforming shall remain nonconforming until special approval has been granted pursuant to application submitted to the proper authority. Where special approval has been granted, such a structure or use shall be deemed conforming. However, where special approval has been denied, such structure or use shall be considered nonconforming on the basis for which the application for special approval was denied.

L. Change in Tenancy or Ownership.

In the event there is a change in tenancy, ownership or management of an existing nonconforming use or structure, such nonconforming use or structure shall be allowed to continue pursuant to the terms of this Ordinance regarding such nonconformities.

M. Special Exceptions.

Any use for which a special exception is permitted, as provided in this Ordinance, shall not be deemed a nonconformity.

Section 27.02 - Buildings, Structures, and Uses

A. Accessory Buildings, Structures and Uses. (amended 02.17.04)

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.

2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)

5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

Detached accessory buildings or structures in residential districts shall not exceed the height of the principal building or structure as constructed. However, the height of a detached accessory building or structure may exceed the height of the principal building or structure, if said accessory building or structure is located at least one hundred fifty (150) feet distant and to the rear of the principal building or structure. In no case shall the height of a detached accessory building or structure exceed the maximum height requirement for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. (amended 07.16.18)
Article XXVII

27.05 Landscaping, Fences and Walls

1. Location and Purpose. Entranceway structures shall be permitted in any required yard area for the purpose of indicating the entrance to a subdivision, multiple-family development, mobile home park, industrial park, office park, or similar planned development containing several buildings that are related in purpose.

Entranceway structures shall be subject to the provisions concerning corner clearance, set forth in Section 27.03.

2. Construction and Design. Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.

3. Site Plan. Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

Where permitted or required in this Ordinance, fences and walls in residential districts shall be subject to the provisions set forth in this section:

1. Lot Enclosures. Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.

2. Privacy or Decorative Fences and Walls. Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.

3. Corner Clearance. No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.

4. Large Lots Excluded. Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.

5. Fences Enclosing Public Areas. Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.

6. Wall Specifications. Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.

7. Fence Specifications. Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.
KEATINGTON HOME OWNERS’ ASSOCIATION

P.O. BOX 143 - LAKE ORION, MICH. 48361

Date: April 9, 2021

KHA-Architectural Control Committee

Proposal submitted by:

<table>
<thead>
<tr>
<th>Name</th>
<th>Robert Ralko</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>2809 Walmsley Circle Dr.</td>
</tr>
<tr>
<td>Phone</td>
<td>248-767-9017</td>
</tr>
</tbody>
</table>

Proposal:

Install a 6-foot Shadow-box fence on back property line in the same materials and as continuation of the already approved perimeter for 2636 Wareing Dr., 2650 Wareing Dr., 2668 Wareing Dr., 2674 Wareing Dr., and 2680 Wareing Dr.

Action of Committee:

- Accept Proposal as Submitted
- Accept Proposal with Exceptions as Noted
- Proposal Incomplete - Requires Additional Information - See Below
- Reject Proposal - Against Township Zoning Regulations - See Below
- Reject Proposal - Against Subdivision Deed Restrictions - See Below
- Other - See Below

Explanation of Action:

This will be an approval for a 4-foot fence pending your approval from the Township for a variance to 6 feet. Current Township ordinance is limiting fence height to 4 feet. Since the others applied for a variance and it was approved, you would have to go through the same process. Once complete, the shadow box type 6-foot fence will be approved.

Action of committee does not imply compliance with Municipal and Building Regulations. Said regulations should be checked prior to construction.

For a Better Community

KHA-Architectural Control Committee

Alex H. Jablonowski 4/09/2021
KHA ACC Chairperson
LOT 66

WALMSLEY CIRCLE DRIVE GO'WO

NAME  BING, INCORPORATED
ADDRESS  9335 BEECH DALY ROAD
DETROIT, MICHIGAN 48239
DATE SURVEYED  10/18/68
SCALE  1" = 30'

JOB No.  68309

N.D. ALEX. BY L.E.T.
REGISTERED CIVIL ENGINEER & LAND SURVEYOR
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

SUBJECT: Staff Report for AB-2021-23, Timothy Hollis, 2815 Walmsley Circle

_________________________________________________________________________

Some of the petitioner’s neighbors have been before you in recent months seeking similar variances. Those neighbors and the petitioner live in the Keatington Subdivision. As in those cases:

Because the property has property lines along Walmsley Circle and Baldwin Road, it is considered to have two front yards and therefore has two front yard setbacks. In this case it is 35-ft. from Walmsley Circle and 35-ft. from Baldwin Road. Also, the fence is proposed to run the length of Baldwin Road and end at the property lines to the north and south so the request includes variances to have 0-ft. side yard setbacks from the required 10-ft. on both sides.

Included in the packet is a letter from the Keatington Home Owner’s Association indicating their approval of a 6-ft. fence as long as the Township approves the variances.

Please keep in mind that if you choose to approve a variance or variances from the side property lines to the north and south, that would potentially allow the petitioner to run a 6-ft. fence the length of the side property lines 0-ft. from the property line. If you approve and you only are allowing the variance(s) for a 6-ft. fence along the Baldwin Road property line – it should be indicated as such in the motion – example – “the setback variances from the property lines to the north and south of said property is for the 6-ft. fence that runs along Baldwin Road only.”

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

RE: AB-2021-23, Timothy Hollis, 2815 Walmsley Circle, 09-20-376-016.

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. Also, if more information is needed, a motion to postpone would be in order.

The variance language listed was 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 motion is to approve, conditions can be added to the motion if appropriate. If the variances are modified, use the modified numbers in the motion. **

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-2021-23, Timothy Hollis, 2815 Walmsley Circle, 09-20-376-016, I move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 - Zoned R-2

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

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.

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

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:

Please be specific how the petitioner meets this criteria

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, impar 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-2021-23, Timothy Hollis, 2815 Walmsley Circle, 09-20-376-016, I move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 - Zoned R-2
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.

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

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

Please be specific how the petitioner does not meet this criteria

be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

   ______________________________________________________
   ______________________________________________________
   ______________________________________________________

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zoning because:

   ______________________________________________________
   ______________________________________________________
   ______________________________________________________

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:


Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

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 $200.00 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, 2525 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: TIMOTHY HOLLIS
Address: 2815 WAUMSLEY CIR. City/State/Zip: LAKE ORION, MI 48360
Phone: (248) 701-3434 Cell: (248) 701-3434 Fax: _______________________
Email: Tim@HollisConstructionLLC.com

PROPERTY OWNER(S)
Name(s): TIMOTHY HOLLIS
Address: 2815 WAUMSLEY CIR. City/State/Zip: LAKE ORION, MI 48360
Phone: (248) 701-3434 Cell: (248) 701-3434 Fax: _______________________
Email: Tim@HollisConstructionLLC.com

CONTACT PERSON FOR THIS REQUEST
Name: Tim Hollis Phone: (248) 701-3434 Email: Tim@HollisConstructionLLC.com

SUBJECT PROPERTY
Address: 2815 WAUMSLEY CIRCLE Sidewell Number: 09-20-376-0160
Total Acreage: 0.43 Length of Ownership by Current Property Owner: 9 Years, 6 Months

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

Zoning Ordinance
Allowance/Requirement Deviation requested

Page 1 of 3
Version 5/10/18
Case #: ____________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **To build a 6' wooden shadowbox fence along the rear of our property that backs up to Baldwin Rd.**

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. **Our property backs up to Baldwin Rd. and we would like more privacy and a sound barrier.**

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: **A fence would not be detrimental to anyone/anything as it would only be on our property.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **There are other properties in our neighborhood that have already been granted the variance and the fence installed. We are only seeking the same.**

5. Describe how the alleged practical difficulty has not been self-created. **There is no difficulty, we are just seeking a variance to build a privacy fence.**

6. The topography of said land makes the setbacks impossible to meet because: **N/A**

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. **Because our property backs up to Baldwin Rd., the noise and lack of privacy is burdensome.**
Case #: 

8. Have there been any previous appeals involving this property? If so, when? NO

9. Is this request the result of a Notice of Ordinance Violation? 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: (must be original ink signature)

Timothy R. Hollis

Date: 3/23/21

Signature of Property Owner: (must be original ink signature)

Timothy R. Hollis

Date: 3/23/21

Print Name: Timothy R. Hollis

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: ____________________________
27.01 Nonconformities

construction on the rebuilding project is begun and diligently carried on within a reasonable time after the excavation, demolition, or removal of the theretofor existing building.

K. Administrative Nonconformities.

A structure or use which is administratively nonconforming shall remain nonconforming until special approval has been granted pursuant to application submitted to the proper authority. Where special approval has been granted, such a structure or use shall be deemed conforming. However, where special approval has been denied, such structure or use shall be considered nonconforming on the basis for which the application for special approval was denied.

L. Change in Tenancy or Ownership.

In the event there is a change in tenancy, ownership or management of an existing nonconforming use or structure, such nonconforming use or structure shall be allowed to continue pursuant to the terms of this Ordinance regarding such nonconformities.

M. Special Exceptions.

Any use for which a special exception is permitted, as provided in this Ordinance, shall not be deemed a nonconformity.

Section 27.02 – Buildings, Structures, and Uses

A. Accessory Buildings, Structures and Uses. (amended 02.17.04)

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.

2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)

5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

Detached accessory buildings or structures in residential districts shall not exceed the height of the principal building or structure as constructed. However, the height of a detached accessory building or structure may exceed the height of the principal building or structure, if said accessory building or structure is located at least one hundred fifty (150) feet distant and to the rear of the principal building or structure. In no case shall the height of a detached accessory building or structure exceed the maximum height requirement for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. (amended 07.16.18)
Article XXVII

27.05 Landscaping, Fences and Walls

1. Location and Purpose. Entranceway structures shall be permitted in any required yard area for the purpose of indicating the entrance to a subdivision, multiple-family development, mobile home park, industrial park, office park, or similar planned development containing several buildings that are related in purpose.

Entranceway structures shall be subject to the provisions concerning corner clearance, set forth in Section 27.03.

2. Construction and Design. Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.

3. Site Plan. Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

Where permitted or required in this Ordinance, fences and walls in residential districts shall be subject to the provisions set forth in this section:

1. Lot Enclosures. Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.

2. Privacy or Decorative Fences and Walls. Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.

3. Corner Clearance. No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.

4. Large Lots Excluded. Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.

5. Fences Enclosing Public Areas. Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.

6. Wall Specifications. Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.

7. Fence Specifications. Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.
Date: 4/11/21

KHA-Architectural Control Committee
Proposal submitted by: Timothy Hollis
Name
Address: 2815 Walsley Cir
Phone
Phone: (248) 761-3429
Proposal:
Install a 6-foot Shadow-box fence on back property line in the same materials and as
continuation of the already approved perimeter for 2636 Wareing Dr., 2650 Wareing Dr., 2668
Wareing Dr., 2674 Wareing Dr., and 2680 Wareing Dr.

Action of Committee:
Accept Proposal as Submitted
X Accept Proposal with Exceptions as Noted
Proposal Incomplete - Requires Additional Information - See Below
Reject Proposal - Against Township Zoning Regulations - See Below
Reject Proposal - Against Subdivision Deed Restrictions - See Below
Other - See Below

Explanation of Action:
This will be an approval for a 4-foot fence pending your approval from the Township for a
variance to 6 feet. Current Township ordinance is limiting fence height to 4 feet. Since the
others applied for a variance and it was approved, you would have to go through the same
process. Once complete, the shadow box type 6-foot fence will be approved.

Action of committee does not imply compliance with Municipal and Building Regulations. Said
regulations should be checked prior to construction.

For a Better Community

KHA-Architectural Control Committee

[Signature]
KHA ACC Chairperson

4/12/2021
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

SUBJECT: Staff Report for AB-2021-24, Catherine Jolly, 780 Joslyn Road

The petitioner is seeking to erect a 6-ft. fence along her property line to the north 0-ft. from that property line. As you will see in the plat map taken from PropertyGateway, the petitioner has a pool as does her neighbor to the north.

The proposed fence does not go all the way along the property line to the north - it appears to start near the back of the house and end at the rear property line but not run the length that rear property line.

If there is a motion to approve, you may want to consider adding a condition as to how far that fence can go.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 14, 2021
RE: AB-2021-24, Catherine Jolly, 780 Joslyn Rd., 09-09-401-008.

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. Also, if more information is needed, a motion to postpone would be in order.

The variance language listed was 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 motion is to approve, conditions can be added to the motion if appropriate. If the variances are modified, use the modified numbers in the motion. **

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-2021-24, Catherine Jolly, 780 Joslyn Rd., 09-09-401-008, I move that the petitioner’s request for:

2 variances from Zoning Ordinance #78 - Zoned R-2

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

1. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the 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:

Please be specific how the petitioner meets this criteria

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-2021-24, Catherine Jolly, 780 Joslyn Rd., 09-09-401-008**, I move that the petitioner’s request for:

1. 2 variances from Zoning Ordinance #78 - Zoned R-2
   Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
   1. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line.
   2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.

Please be specific how the petitioner does not meet this criteria

be **denied** because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zoning because:

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:
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

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 $200.00 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, 2525 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: Catherine Jolly
Address: 780 Joslyn Rd City/State/Zip: Lake Orion, MI 48362
Phone: 248-884-1396 Cell: Fax: 
Email: kathiel087@yahoo.com

PROPERTY OWNER(S)
Name(s): Joshua + Catherine Jolly
Address: 780 Joslyn Rd City/State/Zip: Lake Orion, MI 48362
Phone: Cell: 248-884-1396 Fax: 
Email: Same

CONTACT PERSON FOR THIS REQUEST
Name: Catherine Jolly Phone: 248-884-1396 Email: kathiel087@yahoo.com

SUBJECT PROPERTY
Address: 780 Joslyn Rd Sidwell Number: 09-09401008
Total Acreage: 0.36 Length of Ownership by Current Property Owner: 0 Years, 1 Months

Does the owner have control over any properties adjoining this site? Yes

Zoning Ordinance
Allowance/Requirement Deviation requested
Checklist for Single Family Residential
Zoning Board of Appeals Application

- Applications must be submitted no later than 30 days prior to a scheduled meeting. Meetings are held the second and forth Monday of every month, unless otherwise specified.
- The applicant (or a representative, with written permission from the property owner) must be present at the meeting.

All of the following must accompany your completed application:

☐ Completed application, including original ink signatures of property owner and the applicant.
☐ Application fee of $200.00, cash or check payable to Orion Township.
☐ Proof of ownership. Acceptable forms of documentation include: Warranty Deed, Quit Claim Deed, Land Contract, or Option to Purchase with a Copy of the Warranty Deed.
☐ One copy 8.5"x11" (If size is larger than 11"x17" provide eight copies or 1 copy + PDF copy), of a scaled plot plan, or mortgage survey showing:
  o Lot lines with dimensions, and the total square footage of the lot
  o Label north point
  o Scale used on plans
  o Location of all existing and future buildings (including sheds, decks, pools, etc.) and lot coverage.
  o Accurate dimensions of all buildings, and the distances between them and to the nearest lot line
  o Parking areas and driveway(s)
  o Setback from the road right-of-way
  o All adjoining properties within 100’
  o Any easements on or adjacent to the property
  o Centerlines and road right-of-way widths of all abutting streets
☐ Elevation drawings with dimensions of proposed buildings or additions.
☐ If you live in an area with an active homeowner’s association, please provide an additional copy of plans signed and dated by the association.

Please note:
- You must stake the corners of the proposed structure(s) at least one week prior to the meeting you are scheduled to attend. This allows members of the Zoning Board of Appeals see the proposed location.
- The Zoning Board of Appeals may require a registered, staked survey to verify the location of property lines. If not required by the ZBA, the Building Inspector may require one prior to approving the initial inspection.
- Per Zoning Ordinance 78, Article XXIX, Section 29.03, H, 1: No order of the ZBA permitting the erection or alteration of a building shall be valid for a period longer than one (1) year from the date of such order, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
Case #: ____________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **6 ft. wooden privacy fence on northside of backyard, along property line.**

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. **There is a pool on the edge of the property where the privacy fence will go. The northern neighbor also has a pool on edge of 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: **The variance will not be detrimental to public health because a pool will be enclosed and previously was not.**

4. Explain how the request is not consistent with other properties in the immediate area, please site examples if possible: **There are no fences in the immediately area besides a split rail fence at rear of property.**

5. Describe how the alleged practical difficulty has not been self-created. **We are new owners of the home with young kids + dog that need an enclosed fence. We didn't put pool in originally.**

6. The topography of said land makes the setbacks impossible to meet because: **There is not 10' from property line to pool + we'd like privacy from the neighbors.**

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. **If we have to put the fence 10' in property the pool is there + we'd like privacy while using it from the neighbors who also have a pool.**
8. Have there been any previous appeals involving this property? If so, when? [ ] Yes [X] No

9. Is this request the result of a Notice of Ordinance Violation?

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] [Print Name]: Catherine Jolly [Date]: 4/14/2021

Signature of Property Owner: [Signature] [Print Name]: Catherine Jolly [Date]: 4/14/2021

If applicable:

The property owner hereby give permission to [Signature]: Joshua Jolly to represent me at the meeting.

Zoning Classification of property: [ ] Adjacent Zoning: [ ]

Total Square Footage of Principal Structure: [ ] Total Square Footage of Accessory Structure(s): [ ]

Description of variance(s):

[ ]

[ ]

[ ]

[ ]

[ ]

[ ]

[ ]

[ ]

[ ]

[ ]

[ ]

Date Filed: [ ] Fee Paid: [ ] Receipt Number: [ ]
Article XXVII
General Provisions

27.01 Nonconformities

construction on the rebuilding project is begun and diligently carried on within a reasonable time after the
evacuation, demolition, or removal of the theretofor existing building.

K. Administrative Nonconformities.

A structure or use which is administratively nonconforming shall remain nonconforming until special approval
has been granted pursuant to application submitted to the proper authority. Where special approval has been
granted, such a structure or use shall be deemed conforming. However, where special approval has been denied,
such structure or use shall be considered nonconforming on the basis for which the application for special approval
was denied.

L. Change in Tenancy or Ownership.

In the event there is a change in tenancy, ownership or management of an existing nonconforming use or structure,
such nonconforming use or structure shall be allowed to continue pursuant to the terms of this Ordinance
regarding such nonconformities.

M. Special Exceptions.

Any use for which a special exception is permitted, as provided in this Ordinance, shall not be deemed a
nonconformity.

Section 27.02 – Buildings, Structures, and Uses

A. Accessory Buildings, Structures and Uses. (amended 02.17.04)

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building,
structure, or use already located on the same parcel of land.

2. An accessory building or structure shall not be constructed prior to the commencement of construction of the
principal building or structure or the establishment of the principal use.

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the
purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet
the same front and side yard setback requirements as the principal structure, as set forth in the applicable
zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all
detached accessory buildings. All accessory buildings and structures shall be included in the computation of
total maximum area of all accessory buildings, and together with the principal building or structure shall not
exceed the percentage of lot coverage requirements. (amended 07.16.18)

5. Detached accessory buildings or structures in non-residential districts shall conform to the height
requirements for the principal building or structure, as set forth in the applicable zoning district, except as
specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in
non-residential districts that exceed the height of the principal building or structure, as constructed, shall not
be located in the front yard. (amended 07.16.18)

Detached accessory buildings or structures in residential districts shall not exceed the height of the principal
building or structure as constructed. However, the height of a detached accessory building or structure may
exceed the height of the principal building or structure, if said accessory building or structure is located at
least one hundred fifty (150) feet distant and to the rear of the principal building or structure. In no case shall
the height of a detached accessory building or structure exceed the maximum height requirement for the
principal building or structure, as set forth in the applicable zoning district, except as specifically permitted
otherwise in this Ordinance. (amended 07.16.18)
Article XXVII

27.05 Landscaping, Fences and Walls

1. Location and Purpose. Entranceway structures shall be permitted in any required yard area for the purpose of indicating the entrance to a subdivision, multiple-family development, mobile home park, industrial park, office park, or similar planned development containing several buildings that are related in purpose.

Entranceway structures shall be subject to the provisions concerning corner clearance, set forth in Section 27.03.

2. Construction and Design. Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.

3. Site Plan. Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

Where permitted or required in this Ordinance, fences and walls in residential districts shall be subject to the provisions set forth in this section:

1. Lot Enclosures. Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.

2. Privacy or Decorative Fences and Walls. Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.

3. Corner Clearance. No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.

4. Large Lots Excluded. Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.

5. Fences Enclosing Public Areas. Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.

6. Wall Specifications. Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.

7. Fence Specifications. Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.

Charter Township of Orion Zoning Ordinance 78

Revised 05/21/20
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

SUBJECT: Staff Report for AB-2021-25, Albert Russel Erskine III, 2805 Walmsley Circle

_________________________________________________________________________

Some of the petitioner’s neighbors have been before you in recent months seeking similar variances. Those neighbors and the petitioner live in the Keatington Subdivision. As in those cases:

Because the property has property lines along Walmsley Circle and Baldwin Road, it is considered to have two front yards and therefore has two front yard setbacks. In this case it is 35-ft. from Walmsley Circle and 35-ft. from Baldwin Road. Also, the fence is proposed to run the length of Baldwin Road and end at the property lines to the north and south so the request includes variances to have 0-ft. side yard setbacks from the required 10-ft. on both sides.

Included in the packet is a letter from the Keatington Home Owner’s Association indicating their approval of a 6-ft. fence as long as the Township approves the variances.

Please keep in mind that if you choose to approve a variance or variances from the side property lines to the north and south, that would potentially allow the petitioner to run a 6-ft. fence the length of the side property lines 0-ft. from the property line. If you approve and you only are allowing the variance(s) for a 6-ft. fence along the Baldwin Road property line – it should be indicated as such in the motion – example – “the setback variances from the property lines to the north and south of said property is for the 6-ft. fence that runs along Baldwin Road only.”

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021


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. Also, if more information is needed, a motion to postpone would be in order.

The variance language listed was 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 motion is to approve, conditions can be added to the motion if appropriate. If the variances are modified, use the modified numbers in the motion. **

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-2021-25, Albert Russell Erskine III, 2805 Walmsley Circle, 09-20-376-018, I move that the petitioner’s request for:

- 3 variances from Zoning Ordinance #78 - Zoned R-2
  - Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
    1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.
    2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
    3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

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:

Please be specific how the petitioner meets this criteria

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:
In the matter of ZBA case # AB-2021-25, Albert Russell Erskine III, 2805 Walmsley Circle, 09-20-376-018, I move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 - Zoned R-2

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

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Rd.

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

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

Please be specific how the petitioner does not meet this criteria

be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zoning because:

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

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:
Charter Township of Orion Zoning Board of Appeals

Application for Appeal - Single Family Residential

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 $200.00 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, 2525 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: Albert Russel Erskine III
Address: 2805 Walmsley Cir City/State/Zip: Lake Orion, Mi. 48360
Phone: 248-894-6938 Cell: 248-396-5681 Fax:
Email: judy.erskine@comcast.net

PROPERTY OWNER(S)

Name(s): Albert R. Erskine
Address: 2805 Walmsley Cir City/State/Zip: Lake Orion, Mi. 48360
Phone: 248-894-6938 Cell: 248-396-5681 Fax:
Email: judy.erskine@comcast.net

CONTACT PERSON FOR THIS REQUEST

Name: Randy Erskine Phone: 248-894-6938 Email: judy.erskine@comcast.net

SUBJECT PROPERTY

Address: 2805 Walmsley Circle
Sidewall Number: 09-20-376-018
Total Acreage: 0.254
Length of Ownership by Current Property Owner: 14 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. 
   Install v-line with neighbors 
   fences all being installed at the same time with 
   the same contractor 80 ft. long and 6 ft. high 

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. 
   N/A 

3. If the appeal is granted, please explain how the variance will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: 
   Same as the neighbors 

4. Explain how the request is consistent with other properties in the immediate area, please cite examples if possible: 
   Same as all the neighbors 

5. Describe how the alleged practical difficulty has not been self-created. 
   N/A 

6. The topography of said land makes the setbacks impossible to meet because: 
   N/A 

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. 
   N/A 

Page 2 of 3
Version 5/10/18
Case #: __________________

8. Have there been any previous appeals involving this property? If so, when? ____________________
   No

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: ______ __________________________ Date: 4-19-21

Print Name: Albert R. Erskine III (Randy)

Signature of Property Owner: ______ __________________________ Date: 4-19-21

Print Name: Albert R. Erskine III (Randy)

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

OFFICE USE ONLY

Zoning Classification of property: __________________________ Attached Zoning: N. S. E. W.

Total Square Footage of Principal Structure: 80 x 60 ft high

Total Square Footage of Accessory Structure(s): 80 x 60 ft high

Description of variance(s):

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

Date Filed: ______________________ Fee Paid: ______________________ Receipt Number: ______________________
April 20, 2021

I, Albert R. Erskine, do hereby certify that my son, Scott W. Erskine, has my permission to represent me at the zoning Board of Appeals meeting during my absence. I am currently out of the state and will not be returning until the end of June.

Thank you,

Albert R. Erskine (Randy)
Article XXVII

General Provisions

27.01 Nonconformities

Construction on the rebuilding project is begun and diligently carried on within a reasonable time after the excavation, demolition, or removal of the theretofore existing building.

K. Administrative Nonconformities.

A structure or use which is administratively nonconforming shall remain nonconforming until special approval has been granted pursuant to application submitted to the proper authority. Where special approval has been granted, such a structure or use shall be deemed conforming. However, where special approval has been denied, such structure or use shall be considered nonconforming on the basis for which the application for special approval was denied.

L. Change in Tenancy or Ownership.

In the event there is a change in tenancy, ownership or management of an existing nonconforming use or structure, such nonconforming use or structure shall be allowed to continue pursuant to the terms of this Ordinance regarding such nonconformities.

M. Special Exceptions.

Any use for which a special exception is permitted, as provided in this Ordinance, shall not be deemed a nonconformity.

Section 27.02 – Buildings, Structures, and Uses

A. Accessory Buildings, Structures and Uses. (amended 02.17.04)

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.

2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)

5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

Detached accessory buildings or structures in residential districts shall not exceed the height of the principal building or structure as constructed. However, the height of a detached accessory building or structure may exceed the height of the principal building or structure, if said accessory building or structure is located at least one hundred fifty (150) feet distant and to the rear of the principal building or structure. In no case shall the height of a detached accessory building or structure exceed the maximum height requirement for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. (amended 07.16.18)
Article XXVII

General Provisions

27.05 Landscaping, Fences and Walls

1. Location and Purpose. Entranceway structures shall be permitted in any required yard area for the purpose of indicating the entrance to a subdivision, multiple-family development, mobile home park, industrial park, office park, or similar planned development containing several buildings that are related in purpose.

Entranceway structures shall be subject to the provisions concerning corner clearance, set forth in Section 27.03.

2. Construction and Design. Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.

3. Site Plan. Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

Where permitted or required in this Ordinance, fences and walls in residential districts shall be subject to the provisions set forth in this section:

1. Lot Enclosures. Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.

2. Privacy or Decorative Fences and Walls. Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.

3. Corner Clearance. No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.

4. Large Lots Excluded. Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.

5. Fences Enclosing Public Areas. Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.

6. Wall Specifications. Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.

7. Fence Specifications. Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.

Revised 05/21/20

Charter Township of Orion Zoning Ordinance 78
Page 27 - 35
KEATINGTON HOME OWNERS' ASSOCIATION

P.O. BOX 143 - LAKE ORION, MICH. 48361

Date: April 9, 2021

KHA-Architectural Control Committee

Proposal submitted by:
Name: Albert R. Erskine (Randy)
Address: 2805 Walmsley Circle Dr.
Phone: 248-525.7526

Proposal:
Install a 6-foot Shadow-box fence on back property line in the same materials and as continuation of the already approved perimeter for 2636 Wareing Dr., 2650 Wareing Dr., 2668 Wareing Dr., 2674 Wareing Dr., and 2680 Wareing Dr.

Action of Committee:

Accept Proposal as Submitted
Accept Proposal with Exceptions as Noted
Proposal Incomplete - Requires Additional Information - See Below
Reject Proposal - Against Township Zoning Regulations - See Below
Reject Proposal - Against Subdivision Deed Restrictions - See Below
Other - See Below

X

Explanation of Action:

This will be an approval for a 4-foot fence pending your approval from the Township for a variance to 6 feet. Current Township ordinance is limiting fence height to 4 feet. Since the others applied for a variance and it was approved, you would have to go through the same process. Once complete, the shadow box type 6-foot fence will be approved.

Action of committee does not imply compliance with Municipal and Building Regulations. Said regulations should be checked prior to construction.

For a Better Community
KHA-Architectural Control Committee

Alex H. Jablonowski 4/9/2021
KHA ACC Chairperson
MEMORANDUM

TO:         Zoning Board of Appeals
FROM:   Lynn Harrison, Planning & Zoning Coordinator
DATE:   May 14, 2021
SUBJECT: Staff Report for AB-2021-26, Good Shepherd Lutheran Church 1950 S. Baldwin Road

The petitioner is seeking to replace the current ground sign with a new ground containing an EMC (Electronic Message Center) section.

It is my understanding that the EMC section is being purchased used and therefore documentation for the EMC resolution is not available. A variance from the requirement can be considered.

As you will note in Sign Ordinance 153, ground signs with EMC are not permitted in residentially zoned districts except for institutional uses (i.e. churches, schools, public buildings, etc.).

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

RE: AB-2021-26, Good Shepherd, 1950 S. Baldwin Road, 09-20-101-014.

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. Also, if more information is needed, a motion to postpone would be in order.

The variance language listed was 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 motion is to approve, conditions can be added to the motion if appropriate. If the variances are modified, use the modified numbers in the motion.**

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-2021-26, Good Shepherd Lutheran Church, 1950 S. Baldwin Road, 09-20-101-014, I move that the petitioner's request for:

4 variances from Sign Ordinance #153 - Zoned Residential

Section 7 - Residential Zoned Areas; Ground Signs

1. A 1-ft. height variance from the allowed 6-ft. for a ground sign to be 7-ft. tall.
2. A 10-sq. ft. sign area variance from the allowed 35-sq. ft. for a ground sign to be 45-sq. ft.
3. A 25.6% EMC sign area variance from the allowed 30% (13.5-sq. ft.) for the EMC portion of a ground sign to be 55.6% (25-sq. ft.) of the total ground sign area (45-sq. ft.).
4. A 1mm EMC resolution variance above the maximum 25mm to allow a maximum EMC resolution of 26mm.

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:

Please be specific how the petitioner meets this criteria

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-2021-26, Good Shepherd Lutheran Church, 1950 S. Baldwin Road, 09-20-101-014, I move that the petitioner’s request for:

4 variances from Sign Ordinance #153 - Zoned Residential
Section 7 - Residential Zoned Areas; Ground Signs
1. A 1-ft. height variance from the allowed 6-ft. for a ground sign to be 7-ft. tall.
2. A 10-sq. ft. sign area variance from the allowed 35-sq. ft. for a ground sign to be 45-sq. ft.
3. A 25.6% EMC sign area variance from the allowed 30% (13.5-sq. ft.) for the EMC portion of a ground sign to be 55.6% (25-sq. ft.) of the total ground sign area (45-sq. ft.).
4. A 1mm EMC resolution variance above the maximum 25mm to allow a maximum EMC resolution of 26mm.

Please be specific how the petitioner does not meet this criteria be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zoning because:

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:
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

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 $200.00 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, 2525 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: Good Shepherd Lutheran Church
Address: 1950 S. Baldwin, Lake Orion, MI 48360
Phone: 248-391-1170 Cell: 248-765-1195
Email: MIKE58FIRE@gmail.com

PROPERTY OWNER(S)
Name(s): Church Extension Fund
Address: 3773 Geddes Rd, Ann Arbor, MI 48105-3098
Phone: 1-800-242-3944 Cell: ________________ Fax: ________________
Email: jimsealfeld1@mi.cec.org

CONTACT PERSON FOR THIS REQUEST
Name: Mike Kiekhbusch Phone: 248-765-1195 Email: MIKE58FIRE@gmail.com

SUBJECT PROPERTY
Address: 1950 S Baldwin
Sidewall Number: 09-20-101-04-014
Total Acreage: 11.221 Length of Ownership by Current Property Owner: _______ Years, _______ Months

Does the owner have control over any properties adjoining this site? __NO__

Zoning Ordinance
Allowance/Requirement __________________________ Deviation requested __________________________
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **We are requesting a variance that would allow Good Shepherd to enhance the property with a new sign (please see note below).**

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. **Good Shepherd has a very large road frontage, we have 11.22 acres of property. There is residential to the North and South of our property, county park to the East.**

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: **The new sign will enhance the property, plus give better visibility for people to find Good Shepherd.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **There is an EMC south of the property, though not as large but their property is much smaller too.**

5. Describe how the alleged practical difficulty has not been self-created. **We are asking for the variance that would allow us to use a sign that is affordable.**

6. The topography of said land makes the setbacks impossible to meet because: **N/A**

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. **We only have limited funds at this time, if we don’t get a variance we may be forced to keep the existing sign that is over 20 years old.**

Note: **Good Shepherd has been afforded the opportunity to purchase a used EMC sign at 1/3 the cost of a new sign.**
8. Have there been any previous appeals involving this property? If so, when?  NO

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:  Michael Kiekhbusch  Date:  3-19-2020

Print Name:  Michael Kiekhbusch

Signature of Property Owner:  James R. Saalfeld  Date:  4-7-2020

Print Name:  James R. Saalfeld

If applicable:  I the property owner, hereby give permission to  Michael Kiekhbusch  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:
Variance #1 — Needed for overall height of sign, proposal is for 7', ordinance allows 6'.

Variance #2 — Needed for sign area, proposal is for 45 sq ft., ordinance allows 35 sq ft.

Variance #3 — Needed for sign area, the proposed EMC sign would be at 60% of the total square footage, ordinance allows 30%.

Variance #4 — Needed for resolution of EMC sign, we are planning to purchase a used sign that is manufactured by 5 Star LED from New York. We have been unable to get a spec sheet on this sign. We have been told from the current seller that the resolution is 26 mm, ordinance allows 25 mm.
30" V = 35$

45$

35$

10$

Variance for size

Emc = 30" x 120" = 3,600 \div 144 = 25$

Allowed 13.5

\[\begin{align*}
13.5 - 13.5 &= 0
\end{align*}\]

11.5 variance

Distance from raw OK
Residential Zoned Areas
Ground Signs

These requirements shall govern sign use, area, type, height, numbers, and setbacks, in addition to requirements elsewhere in this Ordinance.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>SF, SE, SR, R-1, R-2, R-3, RM-1, RM-2, MHP, BIZ - Residential &amp; Institutional in Use Group A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Signs</td>
<td>1 per vehicular entrance to a Subdivision/Site Condominium, multiple-family complex or Mobile Home Park</td>
</tr>
<tr>
<td>Overall Height</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Sign Area</td>
<td>35 sq. ft. per side; maximum 70 sq. ft.</td>
</tr>
<tr>
<td>Setback - shall be measured at existing ROW or as req'd by RCOC</td>
<td>20 ft. from ROW</td>
</tr>
<tr>
<td>Footnotes</td>
<td>3</td>
</tr>
</tbody>
</table>

3 The sign area may be increased by one (1) square foot per side for each two (2) feet by which the sign is set back beyond the minimum required setback, provided that the resulting sign area is not more than three (3) times the sign area permitted in the district and is not greater than one hundred and fifty (150) square feet.
Residential Zoned Areas
EMC Ground Signs

To protect the health, safety, peace and enjoyment of Township residents, EMC ground signs are prohibited in residential zoned areas, except for institutional uses (i.e. churches, schools, public buildings etc.), and shall comply with all the requirements and regulations of a non-EMC ground sign in addition to any other requirements set forth in this Ordinance. Further, a residentially zoned EMC ground sign shall also comply with the regulations governing sign use, area, type, height, numbers, and setbacks.

An EMC must be integrated into a ground sign as allowed within the zoning district.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>SF, SE, SR, R-1, R-2, R-3, RM-1, RM-2, MHP, BIZ - Residential &amp; Institutional Use Group A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Signs</td>
<td>1 sign</td>
</tr>
<tr>
<td>Height</td>
<td>The maximum height of an electronic message center shall conform to the maximum height regulations of signs allowed in each zoning district.</td>
</tr>
<tr>
<td>Sign Area</td>
<td>The maximum area of an electronic message center shall not exceed more than 30% of the total sign area.</td>
</tr>
<tr>
<td>Color</td>
<td>Multiple colors on a black background</td>
</tr>
<tr>
<td>Movement</td>
<td>Flashing, animated or moving signs are prohibited. The content of a digital display must transition by changing instantly, with no transitional graphics. Messages may change at intervals of 10 seconds or greater.</td>
</tr>
<tr>
<td>Restrictions</td>
<td>Brightness: See Section 15 - Construction Requirements</td>
</tr>
<tr>
<td>Resolution</td>
<td>Monochrome EMC signs shall have a pixel pitch of 35 mm or less resolution and multi-color EMC signs shall be a pixel pitch of 25 mm or less.</td>
</tr>
<tr>
<td>Restrictions</td>
<td>All EMC signs are required to be shut off between the hours of 11 PM and 6 AM.</td>
</tr>
</tbody>
</table>

Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory-programmed not to exceed the above listed light levels, and that the intensity level is protected from end-user manipulation by password protected software or other method satisfactory to the Township.

The sign shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination.
Good Shepherd Lutheran Church & Preschool

30 in x 96 in = 2,880 sq ft = 20 sq ft

Proposed monument sign with electronic message center

30 in x 120 in = 3,600 sq ft = 25 sq ft

45 sq ft Allowed - 35 sq ft Allowed = 10 sq ft variance

20 sq ft + 25 sq ft = 45 sq ft

EMC = 25 sq ft

Existing

PROPOSED

Date of Proposal: 6.1.20

NORTHERN SIGN CO., INC.
2181 E. Walton Auburn Hills, MI 48326
248.333.7733
www.northernsign.com

Northern Sign Representative

RICK
LEWIS
JUSTIN

Signature:

Please Print Name:

50% deposit will be required prior to any fabrication, with balance to be paid in full on date of completion. Any artwork/sketches shall remain the property of Northern Sign Co., Inc. And shall not be duplicated or used without approval and purchase from Northern Sign Co., Inc.

Any designs/time and or logo artwork incurred prior to acceptance of Proposal shall be that of the customer.

Any expenses incurred for changes made after artwork approval shall be that of the customer.

Acceptance of Artwork Proposal: The above artwork is satisfactory and are hereby accepted. You are authorized to do the work as specified.

RECEIVED
APR 23 2021
Orion Township Planning & Zoning
Baldwin Rd

Future ROW is 150'

1950 S Baldwin
TO: The Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 14, 2021

RE: Dates which cases can be postponed to

If the Zoning Board of Appeals makes a motion to postpone a case to an actual future meeting date (date certain), vs. requiring them to return within a certain number of days the Township does not have to re-advertise or re-mail notices to surrounding properties. By postponing a case to a “date certain”, the Township avoids incurring advertising costs and, in many cases, assists the applicant in returning in a timelier manner. The ZBA By-Laws state the postponement of a case shall not exceed sixty (60) days from the date the matter was first scheduled on a ZBA agenda.

Listed below are upcoming ZBA meetings. When a case needs to be postponed, if the applicant can commit to one of these dates, they should be used to postpone to a “date certain” within the motion, whenever possible. If a case is postponed to a “date certain” please be sure to keep all the information from your packet for that case until the future date.

June 14, 2021 (this meeting has 6 cases on it)
June 28, 2021
July 12, 2021