The Charter Township of Orion Zoning Board of Appeals meeting will be held in-person at the above address. Due to ongoing health concerns arising out of COVID-19 and the possible need to comply with Covid related orders or regulations, the Township may need to hold and reserves the right to convert the in-person public meeting to a video conference as explained below. All persons wishing to attend the meeting should plan on doing so in-person, but should monitor the Township’s website at oriontownship.org or contact the Township Planning & Zoning Department to obtain updates on the meeting status and whether in-person and/or video conferencing will be permitted.

The following is information IF the meeting is conducted via video conference - GoToMeeting - Access code 914-793-997 or VIA TELEPHONE 1-(872) 240-3412 Access Code 914-793-997.

1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 4-26-2021, ZBA Regular Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2021-01, Anton Rozhanskiy, 1500 W. Silverbell, 09-27-301-018 & 09-27-301-019 (parcel directly east of 09-27-301-018) - postponed from 3/22/2021 ZBA meeting
      Petitioner withdrew request on 4/22/2021
   B. AB-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006
      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).
   C. AB-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks Street, 09-10-204-016
      The petitioner is seeking 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).
   D. AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidwell numbers 09-04-402-033 & 034
      The petitioner is seeking 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.
   E. 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 1-ft. rear yard setback variance from the required 30-ft. to construct unit 36, 29.5-ft. from the rear property line.
F. 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.

G. 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).

H. 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.

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

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

6. PUBLIC COMMENTS
7. COMMUNICATIONS
   A. Date Certain Memo
   B. MAP Virtual Zoning Board of Appeals Workshop
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
10. ADJOURNMENT
In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to request accommodations.
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, APRIL 26, 2021 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 26, 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 (Board Member Location):
Dan Durham, Chairman (Orion Township, Oakland County, MI)
Don Walker, PC Rep to ZBA (Orion Township, Oakland County, MI)
Derek Brackon, Secretary (Orion Township, Oakland County, MI)
Mike Flood, BOT Rep to ZBA (Orion Township, Oakland County, MI)
Tony Cook, Vice-Chairman (Orion Township, Oakland County, MI)

ZBA MEMBERS ABSENT:
None

CONSULTANT PRESENT:
David Goodloe, Building Official
Dan Kelly, Township Attorney
Mark Landis, Township Engineer

OTHERS PRESENT:
Gary McHalpine              Wade Sullivan              Dave McCaffrey
Amy McCaffrey               Justin Brantley

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 Trustee Flood, seconded by Vice-Chairman Cook, to change date for AB-2021-05 postponement motion from June 7, 2021 to June 14, 2021. Motion carried
*the date of the postponement was further changed by staff, and re-advertised, to May 24, 2021.

Moved by Trustee Flood, seconded by Vice-Chairman Cook, to approve the minutes as amended: page 10 change “PC” to “ZBA”, page 12 change “flooding” to “plugging”, page 23 change “puts a question” to “call for the question”.
Motion carried.

4. AGENDA REVIEW AND APPROVAL
There were no changes to the agenda.

Moved by Board member Walker, seconded by Chairman Durham to approve the agenda as presented.
Motion carried.

5. ZBA BUSINESS

A. AB-99-02-2021. Dan’s Excavating Inc.: 2985 Judah Rd. (parcel #09-32-400-056); and unaddressed land that is that portion of lot 11 of Mt. Judah Farms south of 2985 Judah Rd. excluding the portion of lot 11 of Mt. Judah Farms that is part of Breckenridge Orion Condominium (parcel #09-32-400-096); and unaddressed land that is one (1) parcel west of 2985 Judah Rd. (parcel #09-32-400-059); and 3011 Judah Rd. (parcel #09-32-400-063)
Chairman Durham read the petitioner’s request as follows:

The petitioner is requesting renewal of an Ordinance No. 99 permit for sand and gravel mining, earth excavation, and/or filling and earth balancing with the hours of operation from 7:00 am to 7:00 pm.

Chris Cousino, representing Dan’s Excavating, introduced himself to the Board. They are here requesting a renewal of the permit to allow them to close out the permit. The site is substantially completed with only topsoil, seeding and mulching to be finished. He is working with Mr. Landis and his office on finalizing grading. This extension is to allow them to import topsoil, final grade, seed and mulch and close out the permit.

Chairman Durham asked when they would be done.

Mr. Cousino replied two to three months depending on availability of topsoil and other concerns like weather.

Mr. Landis, Township Engineer, summarized his review letter dated April 16, 2021. He reviewed the existing topo survey and proposed mining plan that was last revised April 13, 2020. The majority of the grading is completed on site. He described site conditions that he observed during his visit. The steep southern slope down to the ponds has been regraded to a maximum of 1 on 4 slope as shown on mining plan. Once the grading is complete, the applicant will need to place topsoil, seed and mulch and restore the site in its entirety. The retention area shown on the mining plan has been constructed but some fine grading still might be necessary. He stated that they will make sure the applicant has a well-defined swale along the east property line which will keep the drainage on the site. In his opinion, the applicant and submitted materials appear to be in substantial compliance with the Township ordinance and engineering standards. He recommends that the following be conditions of the approval: 1) the applicant should furnish the Township a copy of the haul route permit once it is renewed with RCOC, 2) per Section 7, item
L, Ordinance 99, the applicant shall note the tracking and dust control issues will be monitored through the year, 3) per Section 10, a log of materials shall be maintained and 4) construction debris shall be removed from the recently placed fill and removed from the site. The applicant is requesting a variance for hours of operation from 7 am to 7 pm instead of the ordinance standard 7 am to 5 pm.

Chairman Durham stated that the request for this year seems to be similar to previous years. He asked if it is fair to say that this is a light duty rewrite of what had been done in previous years.

Mr. Cousino replied yes. It is a formality of the extension of time to allow them to finish the project.

Chairman Durham stated that he visited the property and there was a representative from Dan’s Excavating there. He stated that there are 100 trucks listed on the application and he asked how much it would take to fill 100 trucks.

Mr. Cousino stated that the application information was a carryover from last year. This was their request last year to expedite the closure. This was incorrectly stated on this year’s application. The 7 am to 5 pm is more than enough time for them. He is comfortable with reducing the hours to 7 am to 5 pm.

Trustee Flood stated that last year the time was 7 am to 5 pm Monday through Saturday, no Sunday work. He is glad that this is being done. It has been there 60 years.

Board member Walker stated that the applicant said 100 trucks a day and does he think that they will be finished in 2-3 months.

Mr. Cousino replied that he does not see that as being the volumes. As topsoil becomes available, they will take a reasonable amount of time to import the top soil. They do not have the availability of 100 trucks worth of material per day. He cannot give a finite number of trucks but does not want the Board to get caught up in the number. They want to close out the permit as soon as possible.

Board member Walker stated that the problem is the citizens since they anticipated that they would have been done with this already. When you look at the application and citizens read it, they think, it is just like last year but the applicant is saying that it is not like last year.

Mr. Cousino stated that it won’t be like last year because the volumes are done. The site has been filled with the exception of importing the topsoil to cap off the site and to do a final seed and much.

Board member Walker asked how many trucks a day he would guess are needed.

Mr. Cousino stated that it is difficult for him to provide a number.
Chairman Durham asked Attorney Kelly about the paperwork in front of the ZBA since it is different than what the applicant is planning to do.

Attorney Kelly stated that he doesn’t see it as a problem. There is a permit issued by the Building Department after this meeting so as long as the motion reflects the correct hours, that is what will be put in the permit.

Trustee Flood asked if they need to have a haul route from the Road Commission and all of the previous information would still have to be in the motion.

Attorney Kelly replied that they have a bond and an escrow amount set aside. The motion would be to approve the permit per the conditions with the exception of what the applicant has already conceded, 7 am to 5 pm and any other concessions based on the discussion this evening.

Chairman Durham asked for public comment.

James Swoish, 2741 Judah Road, commented on his opposition to the variance request based on the length of time for the project and it still isn’t finished.

Chairman Durham commented that he understands Mr. Swash’s concerns. He has been on the site for many years in a row and it is now to the point where it is nearly done. He stated that the Board wants it to be done too.

Mr. Terry Moran, 2740 Judah Road, expressed concern that the project is still continuing. He agreed with Mr. Swash’s comments. He asked why they should believe the Board now that the project is almost done since they have said it before.

Chairman Durham reiterated the fact that when he visited the site, he personally viewed how far along the project was and how close it is to completion.

Mr. Moran stated that he doesn’t care what happens to the site; he wants it shut down and doesn’t want any more trucks back and forth. The Board has never made any attempt to restrict the types of trucks going in and out. Mr. Moran continued expressing his frustration at the length of time the project has taken.

Mr. Eugene McNabb, 2981 Judah, asked if Ordinance 99 was a legal document and if the permit issued in 1998 was a legal document? He asked if what the court handed down to the Township in reference to how to operate the pit is a legal document?

Trustee Flood stated that the Township is currently in litigation and his advice is to express “no comment” and leave it up to the Township Attorney, Dan Kelly, because it is a pending matter.

Attorney Kelly concurred.

Mr. McNabb commented that the permit is still enforced and during 2021, the Township requested what the pit consists of which consisted of 9-14. They paid OHM $4,800 to prove what
the pit was and OHM said it was 9-14 and this is the permit. Trustee Flood seconded the motion so he is aware of the situation. Now, how can they renew a permit if they do not have a permit and they are not following through with the original permit anyway? He doesn’t care if it is in court or not because the Board’s obligations are separate. The Board’s obligation is to follow the permit as a governing body and lot 9 and 10 is on that permit. He read a portion of the permit which said that all property owners have to sign in order for the property owner to get a permit. He stated that his property is on this permit so legally the property owner cannot be given a permit without my signature and if they do, this is a violation of the law. He asked if someone puts something down on a permit, does the Building Department have the ability to say they are not going to enforce what the ZBA says. OHM says there was no written violation on the pit and this is right. But, in the litigation that is currently being considered, two inspectors are being charged for not taking care of violations. This meeting today is not in court. OHM showed a picture of where the culvert is. Three sides of this culvert is 5 foot high and the material on both sides of the culvert is material that has been pushed onto the pit from his property. He stated that there are two different ordinances, a land ordinance that says it has to be a 4:1 grade and it is not there. Ordinance 99 also says it has to be a 4:1 grade. So, this cannot be approved based on two ordinances. He described the placement of the culvert and his concerns about the grading around the culvert. He stated that his property has been on the permit all of these years and none of the Board members have even walked on his property. He stated that in 2008, the ZBA took off his property illegally and this mistake has never been corrected for all of these years. In 2021, the permit included his property and this is the permit that they are working on renewing at this meeting but they cannot renew it because he has not signed it. This has nothing to do with current litigation. He described the site conditions. It is a disgrace that the Township is more concerned with Dan’s and free dirt than the people that live there. They are talking about how nice the property is but are not considering his property which is in worst shape than the pit is.

Gene McNabb, Orion Township, provided a list of questions for the Board members. He expressed some concerns about the topography and drainage. His father’s property becomes a mud pit every time it rains and this needs to be addressed. He has brought it up for the past three years and nothing happens. He asked if the items in the OHM report are conditions of the permit or an OHM recommendation.

Engineer Landis replied that this is up for the Board to decide.

Chairman Durham asked if the haul permit expires, would the applicant have to renew it.

Applicant replied yes.

Mr. McNabb asked if they were going to run trucks from both ends of the road from Baldwin and Joslyn to alleviate the trucks all coming in one way. In the conclusion of OHM’s report, there is a statement about taking pictures of all trucks which has never been done and they are still concerned about what is in that pit. He asked about the culvert and where it drops off to his father’s property and if the nearby retention pond will pipeline onto his father’s property. Mr. McNabb provided a copy of written questions to Chairman Durham and proceeded to read the questions on the document.
Chairman Durham asked for any additional public comment.

No additional public comment was heard.

Chairman Durham asked the applicant about the haul route.

Mr. Cousino stated that it was consistent with years past where it has come off Baldwin Road.

Chairman Durham stated before they also went all of the way to Joslyn Road when Baldwin Road was under construction. He asked other Board members for their knowledge about the haul route.

Trustee Flood stated that last year they put in the motion Joslyn and Baldwin but the Road Commission has the final say on the haul route.

Chairman Durham asked the applicant if he had any comment about the issues being expressed tonight.

Mr. Cousino stated that he understands the residents. As far as shutting it down, they are at the point where they have to stabilize the site. If they don’t stabilize the site, they will have soil erosion issues. They are applying for a renew of the existing permit. He is aware of the potential conditions and they are able to comply with the conditions outlined in the OHM report.

Vice-Chairman Cook asked how many yards of topsoil they will have to bring in.

Applicant replied 2.5 to 3 inches over the site; 10,000 to 15,000 yards would be the estimate.

Vice-Chairman Cook stated that they have enough trucks but the question is where are they going to get the topsoil?

Mr. Cousino replied yes, it is availability.

Vice-Chairman Cook commented that there is a site at Silverbell and M-24 that sell topsoil and there is another one on Brown Road.

Mr. Cousino replied that now he knows.

Vice-Chairman Cook stated that if the permit was issued for a seven month period, that would be sufficient to get the project done.

Mr. Cousino replied that he hates to bring up constraints. They experienced shut downs due to COVID-19 last year and he would prefer not to be under constraints. They have showed good faith in getting to the point they did last year. He wants it done and they are motivated to get it done and he doesn’t see any reason why they couldn’t get it done within that timeframe but they never know what tomorrow brings.
Vice-Chairman Cook asked if they were still not completed in 2022 and they were again before this Board, would it then be an appropriate time to ask the reasons why not.

Mr. Cousino answered yes.

Vice-Chairman Cook stated that he doesn’t understand why they could not commit to 7 months since they have the equipment and they have accessibility to topsoil.

Mr. Cousino replied they have not imported material in quite some time and they need to work with OHM to establish the final grades before they can topsoil.

Vice-Chairman Cook asked Engineer Landis if a shorter window than 12 months acceptable.

Engineer Landis stated that the applicant has provided an as built survey but they haven’t had an opportunity to review it yet. Pending this review, they would then give the go ahead for topsoil of the site. He anticipates that this will take place before winter but he cannot commit to that. He thinks that everything could be done by the end of this year.

Attorney Kelly replied that it is an annual permit and the permit if issued, says that there will be no impact to the health and safety of the residents. He stated that he does not think there is a basis for the Board to reduce the annual permit from 12 months to 7 months. If they are going to issue it for 7 months, then it should apply for 12 months. The Board can put conditions on the permit and there is no authority in the ordinance to grant anything less or more than that time.

Board member Walker asked how do they put pressure on the Road Commission so that they just came from Baldwin because that appears to alleviate some issues. It would eliminate the impact on some of the residents.

Attorney Kelly stated that they are at a point where there is no filling going on; it is just the topsoil which is to the benefit of the Township to get this closed. Whatever number of trucks is necessary, that is all that is happening and the quicker they get that done, the quicker they get it closed down. If the applicant can come off of Baldwin and this is more acceptable, he should consider that. The permit being granted this year is in the benefit of the Township and the residents.

Chairman Durham asked Engineer Landis if he feels they are motivated to make this happen.

Engineer Landis replied yes. They have been working separately on a close out plan and have worked with surveyors to show that it is in conformance with the mining plan. They are checking to make sure there is sufficient drainage and that their design does not promote backup in the culvert.

Secretary Brackon asked the applicant if he could concede that the trucking routes would only be Baldwin.
Mr. Cousino stated that it is conditioned upon the Road Commission but they will bring it up and make the proposal of exclusive access off of Baldwin Road to them.

Secretary Brackon asked about the number of trucks. Would the applicant be willing to reduce that?

Mr. Cousino stated that he would prefer not to cap it.

Secretary Brackon asked if they would have 100 trucks.

Mr. Cousino stated that he doesn’t see a scenario where they would have as many as 100 trucks. They are not producing that volume of material to need 100 trucks.

Secretary Brackon asked then why not concede fewer trucks.

Mr. Cousino replied that it is a dartboard number that is not relevant. It is more a case of trying to complete the project and getting it wrapped up.

Vice-Chairman Cook stated that they are talking roughly 340 trucks to get 10,000 yards of topsoil there. No matter what the Road Commission says about accessibility, the company can say that they will only come off of Baldwin Road. Is this something he could concede?

Mr. Cousino replied yes, as long as it is an option approved by the Road Commission.

Board member Walker referred to the list of questions given to the Board by Mr. McNabb. He asked if the Engineer could address them.

Engineer Landis stated that regarding the slope, the as built survey that was provided does show that the site has been graded to a 1 on 4 slope. At the extreme east property line, it is 1 on 3. To match that, at some point you have to have 1 on 3 on your site. There is a very small portion of the applicant’s site that is 1 on 3 where it ties into the grades at the property line.

Chairman Durham asked who was going to do the final survey.

Engineer Landis replied that this is up to the applicant to provide this.

Trustee Flood stated that the Road Commission and Weighmaster determined the haul route.

Engineer Landis referred to the list of Mr. McNabb’s questions and stated that he could not answer any of the other questions.

Chairman Durham stated that it is his opinion that it would be a mistake to shorten the permit’s length because what if they get a month of rain, etc. He would personally have a difficult time supporting any more extensions of this permit. He urged the applicant to do what it takes to make this happen.
Mr. McNabb stated that to close a pit, the applicant must adhere to a 4 to 1 slope which is in the ordinance. In the corner of the property, they cannot achieve a 4 to 1 slope and he is concerned about that. This is not the proper procedure to close the pit. As a citizen, what is the recourse to make sure that the applicant adheres to the proper closing procedure per Ordinance 99.

Vice-Chairman Cook asked Engineer Landis if this information was correct about the slope needed to close the permit.

Engineer Landis replied that he would have to read the exact language of the ordinance but it is common practice to match existing grades at property lines.

Chairman Durham stated that this is why he asked about the final survey requirements.

Engineer Landis replied that the applicant’s engineer and surveyor who are licensed would prepare those documents.

**Trustee Flood moved in Case #AB-99-02-2021, Dan’s Excavating Inc., 2985 Judah Road, (parcel #09-32-400-056): and unaddressed land that is that portion of lot 11 of Mt. Judah Farms south of 2985 Judah Rd. excluding the portion of lot 11 of Mt. Judah Farms that is part of Breckenridge Orion Condominium (parcel #09-32-400-096); and unaddressed land that is one (1) parcel west of 2985 Judah Rd. (parcel #09-32-400-059); and 3011 Judah Rd. (parcel #09-32-400-063) to grant renewal of an Ordinance 99 Permit for sand and gravel mining, earth excavation and or filling and earth balancing with the hours of operation from 7:00 am to 5:00 pm Monday through Friday and 7:00 am to 5:00 pm Saturday, no operations on Sundays or Holidays, because that is the renewal of a permit to finally get this permit completed and closed out per Ordinance 99 of the filling and earth balancing. The number of vehicles are restricted to 100 vehicles per day as has been on the annual permit and the Board is requesting that the Oakland County Road Commission and Weighmaster allow at least 50/50 entrance and exits on both Joslyn Road and Baldwin Road.**

Chairman Durham read a letter opposing the variance from Linda Lovins, 3165 Judah Road, because of concerns regarding noise from the trucks, trucks damaging the gravel road, dust being stirred up by trucks and safety concerns about the trucks going too fast where children walk to and from the bus stop.

(continued Motion by Trustee Flood) Applicant should address condition 1-4 as presented in the OHM review letter dated April 16, 2021. Applicant must keep bonds current. Applicant must obtain updated haul route from the Road Commission which expires in June 2021 and provide a copy to the Township. Seconded by Board member Walker.

Trustee Flood amended motion to say, applicant would only use access from Baldwin Road if the Road Commission and the Weighmaster agree. If this is not agreed upon, applicant will have a haul route with 50/50 entrance and exits on both Joslyn Road and Baldwin Road. Also, applicant must continue to carry the insurance currently in existence.
Roll call vote was as follows: Durham, yes; Walker, yes; Brackon, yes; Flood, yes; Cook, yes. Motion Carried 5-0.

B. AB-2021-03, Justin Brantley, 2191 Pondview, 09-04-126-022 (postponed from 3/22/2021 meeting)

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

Article V, Section 5.04, Zoned SE
1) A 10-ft. side yard setback variance from the required 20-ft. to build a pole barn 10-ft. from the side property line (west)

Article XXVII, Section 27.02 Lot size 1 to 2 Acres
2) A 773-sq. ft. variance above the allowed 1,000-sq. ft. Maximum Floor Area of all Detached Accessory Buildings, to build a 1,200-sq. ft. pole barn in addition to a 573-sq. ft. above ground swimming pool.

3) A 937-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of all Accessory Buildings to build a 1,200-sq. ft. pole barn in addition to a 664-sq. ft. attached garage and a 573-sq. ft. above ground swimming pool for a total Maximum Floor Area of all Accessory Buildings of 2,437-sq. ft.

Mr. Justin Brantley introduced himself to the Board members. He stated that he moved the building between two banks of trees but will not be able to be viewed by the neighbors.

Trustee Flood complemented the petitioner because he reduced the barn by one half and eliminated the setback variance request. He appreciates him working with the Board.

Vice-Chairman Cook asked if he has spoken to the neighbors located to the south whose deck will overlook the new structure.

Mr. Brantley stated that he spoke to the property owner’s son.

Chairman Durham commented that the applicant has appeared to work with the Board’s comments and his neighbors to make this work.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Board member Walker moved in the matter of AB-2021-03, Justin Brantley, 2191 Pondview, 09-04-126-022 to approve the following variances: Two variances from Zoning Ordinance #78, Zoned SE, Article XXVII, Section 27.02 Lot size 1 to 2 Acres as follows:
A 173-sq. ft. variance above the allowed 1,000-sq. ft. Maximum Floor Area of all Detached Accessory Buildings, to build a 600-sq. ft. pole barn in addition to a 573-sq. ft. above ground swimming pool.

A 337-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of all Accessory Buildings to build a 600-sq. ft. pole barn in addition to a 664-sq. ft. attached garage and a 573-sq. ft. above ground swimming pool for a total Maximum Floor Area of all Accessory Buildings of 1,837-sq. ft.

The petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts that show the petitioner does show the following practical difficulty: the petitioner was before the Board some time ago with a larger request and the petitioner listened to the Board comments and came back and modified his request. The lot is a large lot zoned SE, 1-2 acres, it is located in an area where the neighbors were not happy with the placement originally resulting in the petitioner moving the structure and everyone now seems to be happy with the revised plans. The following are exceptional and extraordinary circumstances or conditions applicable to the property that do not involve properties in that same district or zone: it is an extremely large property and the way it is positioned, this placement fits into a better scheme of things. The variance is necessary for the preservation and enjoyment and substantial property right possessed by other properties in the same zone and area and the granting of this variance or modification will not be materially detrimental to the public welfare because where it is situated is off the beaten path. The granting of this variance would not impair and adequate supply of light and air to adjacent property, and would not unreasonably increase the congestion of public streets or increase the danger of fire or endanger public safety, or any other impairment of the public health, safety, comfort, morals or welfare of the inhabitants of the township. Supported by Chairman Durham.

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

C. AB-2021-10, Gary McHalpine, 2710 Wareing Dr., 09-20-376-010 (postponed from 4/12/2021 meeting)

Chairman Durham read the petitioner’s request as follows:
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.
Mr. Gary McHalpine introduced himself to the Board members. He provided a history of living in this neighborhood. He stated that Baldwin Road has become a major artery and the noise levels have increased. The purpose of the fence is to temper the noise coming from Baldwin Road and also there is a safety path between the road and his lot. The fence would provide some privacy from the safety path.

Chairman Durham commented that there will be no fences between houses.

Mr. McHalpine concurred.

Trustee Flood commented that Mr. McHalpine has been here 53 years and he has seen a lot of changes in this area.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved in Case AB-2021-10, Gary McHalpine, 2710 Wareing Dr., 09-20-376-010 to approve the petitioner’s request for the 3 non-use variances from Zoning Ordinance #78 – Zoned R-2 as follows:

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.

This variance is granted conditioned upon the setback variances from the property lines to the north and south of said property strictly for the 6 foot privacy fence that will run alongside Baldwin Road and existing safety path only. Because the petitioner did demonstrate that the following standards for variance have been met in this case and set forth facts show a unique characteristic of this property is having two front yards, one facing on Wareing Drive and one facing Baldwin Road, widening of Baldwin Road and the complete connection of the safety path system starting south of I-75 and running north to Indianwood Road. The following are exceptional extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone. Throughout the last several years traffic volume and admitted road noise has tremendously increased due mainly to the residential expansion and increase both to the south and north of this older well-established subdivision community. The variances are necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone or vicinity based on the following findings of fact. Due to the above previously mentioned findings of fact, the property owner can no longer enjoy peace, tranquility as well privacy and safety that they once possessed. The granting of the variance and 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 of fact, the Keatington Home Owner’s
Association Architectural Review letter date stamped received March 10, 2021 has formally
accepted proposal with the exceptions as noted: ZBA Approval of requested variances and
fence to be constructed of the same material and style, shadowbox, as previously approved
fencing along Baldwin Road only. Further, based on the following findings of fact, the
granting of this variance would not impair an adequate supply of light or air to adjacent
property, in fact, installation of this style of fence will protect the subject property owner
from vehicle headlights on Baldwin Road spilling onto his property and for his privacy. The
granting of this variance would not unreasonably increase the congestion of public streets or
increase the danger of fire or endanger public safety, unreasonably diminish or impair
established property values within the surrounding area or any other respect, or any other
impairment of the public health, safety, comfort, morals or welfare of the inhabitants of
Orion Township. Supported by Vice-Chairman Cook.

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

D. AB-2021-11, Dave McCaffrey, 252 Shady Oaks, 09-10-209-001

Chairman Durham read the petitioner’s request as follows:
The petitioner is requesting 6 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3
1. A 2.6-ft. side yard setback variance from the required 7-ft. to build a home addition
   4.4-ft. from the side property line (east).
2. A 1-ft. rear yard setback variance from the required 35-ft. to build a home addition 34-
   ft. from the rear property line.
3. A 2.6-ft. side yard setback variance from the required 7-ft. to add a future deck 4.4-ft
   from the side property line (east).
4. A 12.74% lot coverage variance above the allowed 25% for a total lot coverage of
   37.74%

Article XXVII, Section 27.03
5. A 5.5-ft. shoreline setback from the required 20-ft. to add a future deck 14.5-ft. from
   the shoreline (to the west)

Article XXII, Section 27.17
6. An 8.9-ft. wetland setback variance from the required 25-ft. to build a home
   addition 16.1-ft. from a wetland (to the west).

Mr. Dave McCaffrey introduced himself to the Board. He is looking to put a home addition onto
a small 1940’s cottage that he would like to use as a family home.

Chairman Durham commented on visiting the site and the limited parking area.
Mr. McCaffrey stated that his neighbors are very accommodating.

Chairman Durham asked what part of the structure is being removed. He asked if it was the cutout portion on the lake side.

Mr. McCaffrey replied yes; it is not structurally safe and needs to come down.

Vice-Chairman Cook asked if currently he only has one parking space.

Mr. McCaffrey replied yes, courtesy of his neighbor.

Wade Sullivan, neighbor living at 270 Shady Oaks, introduced himself to the Board. He stated that this is all common parking at the end of the cul-de-sac.

Vice-Chairman Cook asked if the shore line was addressing the existing paver patio.

Mr. McCaffrey stated that on the north side of the house where the structure they are going to knock down, this is where the addition is going and the deck will be going off that addition.

Vice-Chairman Cook asked where the second deck was going.

Mr. McCaffrey stated that there is only one deck. Since the water surround the deck, they had them measure from both ways.

Chairman Durham asked if the wetlands were regulated.

Mr. McCaffrey replied no.

Vice-Chairman Cook asked if they started construction at one time.

Mr. McCaffrey stated that they tore all of the siding off so he could put the corner post up. He confirmed that he pulled a permit for this work.

Board member Walker asked how long he has lived there.

Mr. McCaffrey replied that they purchased the cottage in May 2019. Currently they are using it as a cottage and hoping to convert it to their principle residence.

Board member Walker asked if the current square footage was 700 and it would go to about 1400 square feet.

Mr. McCaffrey replied yes.

Chairman Durham asked for public comment.
Mr. Sullivan commented that he is in favor of the project and proposed variances. The petitioner has done a good job cleaning up the yard, the existing home and the site in general.

Chairman Durham commented on past projects and how those were accomplished.

Vice-Chairman Cook asked if Mr. Sullivan was on the left or the right when you are facing the home.

Mr. McCaffrey replied that he is on the south side.

Secretary Brackon asked if Mr. Sullivan was doing the construction.

Mr. Sullivan replied no; he may be assisting but he will not be the primary contractor on the job.

Secretary Brackon moved in ZBA Case #AB-2021-11, Dave McCaffrey, 252 Shady Oaks, 09-10-209-001 to approve the petitioner’s request for 6 variances from Zoning Ordinance #78 as follows:

**Article VI, Section 6.04, Zoned R-3**
1. A 2.6-ft. side yard setback variance from the required 7-ft. to build a home addition 4.4-ft. from the side property line (east).
2. A 1-ft. rear yard setback variance from the required 35-ft. to build a home addition 34-ft. from the rear property line.
3. A 2.6-ft. side yard setback variance from the required 7-ft. to add a future deck 4.4-ft from the side property line (east).
4. A 12.74% lot coverage variance above the allowed 25% for a total lot coverage of 37.74%.

**Article XXVII, Section 27.03**
5. A 5.5-ft. shoreline setback from the required 20-ft. to add a future deck 14.5-ft. from the shoreline (to the west).

**Article XXII, Section 27.17**
6. An 8.9-ft. wetland setback variance from the required 25-ft. to build a home addition 16.1-ft. from a wetland (to the west).

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

1. The petitioner does show the following practical difficulty; as demonstrated in the Board materials and in what the petitioner describes, the shape of the lot, the fact that it is a lake front property that he is trying to improve and the fact that wetlands exist.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: it is a nonconforming lot, petitioner has phenomenal neighbors, the shape of the
lot, the fact that there exists wetlands on the property and it is lakefront require the need for the variance.

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. As the petitioner described he is trying to make this is primary residence as opposed to just a cottage, the petitioner has 3 children and the improvement in the property is going to make it look nicer increasing the property values of all of the neighbors in the area and helping the Township.

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 findings: as we have heard in the testimony, the cleanup that the petitioner has already done and proposed to do is going to make the property much nicer, there is not going to be any destruction of the wetlands which are currently there which should not affect the water table, any of the plants or grasses in the wetlands area, any of the animals or other ecosystems that exist in the wetlands area will not be affected.

5. Based on the following findings of fact, granting this variance would not impair an adequate supply of light and air to the adjacent property, it would not unusually increase congestion in the public streets given the fact that he is at the end of the road that goes into Lake Orion. There is also not going to be an increase of fire, or endanger of the public safety, there is not going to reasonably diminish or impair established property values within the surrounding area, in fact, to the contrary. 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.

Supported by Trustee Flood.

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

E. AB-2021-12, Meijer Inc., 1025 S. Lapeer Rd., 09-14-226-008 & 09-14-112-001

Chairman Durham read the petitioner’s request as follows:
The petitioner is requesting 6 variances from Zoning Ordinance #78 – Zoned GB

Article XIV, Section 14.02 (A)(1)
1. A 37-ft. setback variance from the required 100-ft. for a drive-thru pharmacy use to be 63-ft. from a residential property line.
2. A 50-ft. setback variance from the required 50-ft. for a circulation lane for a drive-thru pharmacy to be 0-ft from a residential property line.

Article XIV, Section 14.04

Article XXVII, Section 27.16(B)(1)(a)(i)

4. A variance from this ordinance section to allow the east façade (323-ft.) and the south façade (211-ft.) to be greater than 100-ft. without a recess or projection.

Article XXVII, Section 27.16(C)

5. A 23% variance above the allowed 60% of off-street parking area located between the front façade and an abutting street for a total of 83%.

6. An 18-ft. setback variance above the minimum required 50-ft. for truck docks to be 32-ft. from a residential property.

The petitioner is also seeking 4 variances from Sign Ordinance 153 – Zoned Non-Residential; GB

7. A 30-ft setback variance from the required 30-ft. for a ground sign to be 0-ft. from the road right-of-way.

8. A 100.21-sq. ft size variance above the allowed 200-sq.ft. for a wall sign to be 300.21-sq. ft.

9. A variance for 5 wall signs above the allowed 1 wall sign for a total of 6 wall signs.

10. A 239.44-sq. ft. size variance above the allowed 200-sq. ft. for a total square footage of all wall signs to be 439.44-sq. ft.

Ms. Ashley Mack, Real Estate Manager, Meijer, introduced herself and Jason Vandercote, Engineer, to the Board members. She thanked the Board for their time and consideration. This variance is for a brand new Meijer store to be located in the Township. They identified this location because of positive demographic and economic factors in addition to the overall site access, existing utilities. The proposed use is consistent with the Township’s Master Plan. The new store will be approximately 90,000 square feet which is smaller than the typical Meijer superstore. Ms. Mack provided a PowerPoint presentation providing details about the proposed store.

Mr. Vandercote provided an outline of the requested variances through an electronic presentation presented to the Board.

Chairman Durham asked about the comment, “cross easement not recorded.” He stated that it was coming out of the Dairy Queen and making a left turn onto Clarkston Road.

Mr. Vandercote stated that the seller of the property is retaining the northern half and selling the petitioner the southern half. There are two separate parcel numbers, but the seller owns both parcels. He believes the sign that Chairman Durham is referring to reflects one of the two east to west driveways by the Dairy Queen. The northern one allows traffic for everyone in the plaza and the southern one is supposed to be just for the accompanying tenant spaces. He doesn’t know this for a fact because he hasn’t examined the parcel being retained by the seller closely.

Chairman Durham asked if all of the parking is owned by one entity.
Mr. Vandercote replied in the current configuration, yes, but in the proposed configuration, no. Meijer is going to be acquiring the property and providing their own parking.

Chairman Durham asked what is going to happen when they have too many shoppers’ cars for their existing parking lot.

Ms. Mack stated that they enter into an operating easement agreement where they agree that they will not go after the other business patrons which are parked in their parking lot but also, they do not want that to be a frequent agreement so it is put into the agreement that is recorded. The intent is that Meijer will self-park and the other businesses will self-park. If there is overlap on a short-term basis, they acknowledge that this may happen and it is not enforceable.

Mr. Vandercote stated that with the format being grocery only, they do not anticipate getting the Black Friday, Christmas and Easter peaks that you would normally see in a supercenter format.

Chairman Durham asked about light leaking off of the property.

Mr. Vandercote replied that they will not have light leaking off of the property. The Planning Commission has asked them to update the photometric plan as part of the conditions of approval.

Chairman Durham asked if the loading and unloading of trucks will project any noise down Clarkston Road and the location of the dumpsters.

Mr. Vandercote replied that the loading docks will be equipped with whisper units. This allows them to quite the noise of the loading docks. He showed on the plans where the trash receptacle will be located. The Planning Commission asked them to install a screen wall in conformance with the ordinance for the revised site plan submittal and they agreed to do that.

Secretary Brackon asked if the traffic study was waived by the Planning Commission based on the Kmart that used to exist there and thinking that the traffic that went to Kmart for 20 years will be the same traffic that will go to this new Meijer.

Mr. Vandercote replied mostly yet. The Planning Commission evaluated the change in traffic from the change in square footage of the Kmart store to the square footage of the proposed Meijer store. And with the increase in square footage, it fell well below the threshold where the Planning Commission would normally require a traffic impact study. The purpose of the traffic impact study is normally to provide any mitigating traffic improvements needed for the site. Because this site has 5 different ingress and egress points with signalized access, there is very little that they can or would do to improve the traffic circulation. It is ultimately up to MDOT as to how the driveways are permitted and approved for the new store.

Secretary Brackon stated that this theory says that the same number of people who visited the Kmart are the same number that will visit the Meijer and that is not true. It also presupposes that the all of the entrances are going to be used equally which is not going to happen. The main entrance is signalized and the cutout is going to become filled and will overfill out onto M-24 throughout the day.
Mr. Vandercote stated that he understands the concern but MDOT will be making sure that this does not happen.

Secretary Brackon asked Board member Walker about the Planning Commission’s findings.

Board member Walker stated that as they analyzed it, with the help of the Engineer, they said that the store was going to be about the same size. The Commission felt that people shop much less now and many time orders are called in or delivered. The Commission felt that there was enough ingresses and egresses to satisfy their concerns.

Vice-Chairman Cook asked how 90,000 square feet would compare to a typical grocery store.

Ms. Mack stated that it would be bigger than a Fresh Thyme but it would fall in line with the typical grocery store size. It is geared more towards the quick shopper.

Vice-Chairman Cook asked if they have a specific entrance that is designed for shoppers coming to pick up order.

Ms. Mack stated that there is a pickup area on the side of the building and they also have Shipt delivery. Those customers are going to get used to the store layout. They will also have an App that will allow shoppers to go through the line much faster. They anticipate that the typical parking turn around to be much quicker than the typical supercenter store.

Mr. Vandercote commented that they will have a higher parking turn around and the shoppers will not be parked in the parking spaces nearly as long. They have five points of ingress and egress and if one becomes congested, the traffic will find the more efficient route.

Vice-Chairman Cook asked about the location of the compactor.

Mr. Vandercote pointed the location out on the plan and also pointed out the buy online pickup location.

Trustee Flood commented on the construction of the original Kmart in this location. He asked the petitioner about the practical difficulty. He commented that they are taking down an old facility and update it with a compatible building in size. Some of the setbacks are set by the Fire Department to allow them to get their equipment around the building. He looked at the site in reference to where the monument sign is going to go and it will not block the line of sight.

Mr. Vandercote stated that they did talk to the Fire Chief about the access around the building. The Fire Chief approved it and is excited about it because it gives him a much better circulation route around the Planet Fitness and the plaza to the north.

Chairman Durham asked for public comment.

No public comment was heard.
Vice-Chairman Cook asked about the hours of operation.

Ms. Mack replied 6:00 am to 11:00 pm initially.

Vice-Chairman Cook moved ZBA AB-2021-12, Meijer Inc., 1025 S. Lapeer Rd., 09-14-226-008 & 09-14-112-001 to grant 6 variances from Zoning Ordinance #78 – Zoned GB as follows:

**Article XIV, Section 14.02 (A)(1)**
1. A 37-ft. setback variance from the required 100-ft. for a drive-thru pharmacy use to be 63-ft. from a residential property line.
2. A 50-ft. setback variance from the required 50-ft. for a circulation lane for a drive-thru pharmacy to be 0-ft from a residential property line.

**Article XIV, Section 14.04**
4. A variance from this ordinance section to allow the east façade (323-ft.) and the south façade (211-ft.) to be greater than 100-ft. without a recess or projection.

**Article XXVII, Section 27.16(B)(1)(a)(i)**
5. A 23% variance above the allowed 60% of off-street parking area located between the front façade and an abutting street for a total of 83%.
6. An 18-ft. setback variance above the minimum required 50-ft. for truck docks to be 32-ft. from a residential property.

The petitioner is also seeking 4 variances from Sign Ordinance 153 – Zoned Non-Residential; GB
7. A 30-ft setback variance from the required 30-ft. for a ground sign to be 0-ft. from the road right-of-way.
8. A 100.21-sq. ft size variance above the allowed 200-sq.ft. for a wall sign to be 300.21-sq. ft.
9. A variance for 5 wall signs above the allowed 1 wall sign for a total of 6 wall signs.
10. A 239.44-sq. ft. size variance above the allowed 200-sq. ft. for a total square footage of all wall signs to be 439.44-sq. ft.

The petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth fact that showed:

1. Petitioner does show the practical difficulties that the site itself, some exceptions have been made in order to accommodate the store by reducing size from their normal footprint cutting the square footage down to 9,000 square feet and being only a grocery store. They came into the community in order to fit the property itself.
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 is an existing facility that was used previously for a big box store and the petitioner is only buying 50% of the property of the plaza where that existing store is.

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: there is no impact on the areas because what they are doing is operating solely in the footprint of what they are purchasing and have taken into account property rights of the residential home owners by installing items in their truck loading docks like whisper quiet technology and they have also taken into account lighting and have also taken into consideration that as the store grows, there may be need to create parking easements with the other owners of the adjacent properties.

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. Although the parking is below what the ordinance does say, due to the changes in our society where people are shopping faster, more people are placing orders and they have a place where pickups can be done, and drive up pickup can happen for their pharmacy orders, it will not be detrimental to the public welfare or injurious in any way to adjacent property owners.

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 due to the conditions given above such as people shopping online and utilization of delivery services. Variances will not increase the fire danger or endanger the public safety as per support of the Public Safety officials and building officials.

Supported by Trustee Flood, with the addition of #6 below. Vice-Chairman Cook agreed with the addition.

6. The granting of the variance is not going to reasonably diminish or impair established property values within the surrounding area, in fact, to the contrary. 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; Walker, yes; Brackon, yes; Flood, yes; Cook, yes. Motion Carried 5-0.

Vice-Chairman Cook asked if they would consider installing electronic charging vehicle stations.

Mr. Vandercote stated that typically the charging stations are done where there are gas station sites. This property was not large enough to accommodate a gas station. Sometimes these stations are added later, but it is not proposed at this time.
6. PUBLIC COMMENTS
None

7. COMMUNICATIONS
A. Date Certain Memo
B. MAP Virtual Zoning Board of Appeals Workshop

8. COMMITTEE REPORTS
None

9. MEMBERS’ COMMENTS
Trustee Flood stated that there are 10 cases on the next meeting and there are only supposed to be 5. Chairman Durham stated that he was consulted and he agreed with the 10 cases. He was afraid that if they didn’t hear all of them, they would continue to get jammed up into the summer.

Trustee Flood, Chairman Durham and Board member Walker commented on the Dan’s Excavating case.

10. ADJOURNMENT
Moved by Chairman Durham, seconded by Vice-Chairman Cook to adjourn the meeting at 9:54 pm.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: April 30, 2021
SUBJECT: Staff Report for AB-2021-01, Anton Rozhanskiy, 1500 W. Silverbell

Please be advised that the applicant withdrew his request on April 22, 2021.

If you have any questions, please let me know.
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: April 30, 2021
SUBJECT: Staff Report for AB-2021-13, Stephanie Swearingen, 1125 Elkhorn

The applicant is asking to add a second-story addition to her home 5-ft. from the side property line to the south. The addition will not be any closer to the lot line than the existing attached garage. The attached garage was built in 1992 and received a variance from the ZBA to be setback 5-ft. from the side property line.

Being this is a second story addition, there would be no increase in lot coverage. Also, all other setbacks are met.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: April 30, 2021

RE: AB-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road

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-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006, I move that the petitioner’s request for:

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).

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-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006**, I move that the petitioner’s request for:

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).

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: Stephanie Swearingen
Address: 1125 Elkhorn Lake Road  City/State/Zip: Orion Township/MI/48362
Phone: (248) 941-1126  Cell: (248) 941-1126  Fax: ____________________________
Email: Stephanie.Linz.Oll@gmail.com

PROPERTY OWNER(S)
Name(s): Stephanie Swearingen (Linz)
Address: 1125 Elkhorn Lake Road  City/State/Zip: Orion Township/MI/48362
Phone: ____________________________  Cell: (248) 941-1126  Fax: ____________________________
Email: Stephanie.Linz.Oll@gmail.com

CONTACT PERSON FOR THIS REQUEST
Name: Stephanie Swearingen  Phone: (248) 941-1126  Email: Stephanie.Linz.Oll@gmail.com

SUBJECT PROPERTY
Address: 1125 Elkhorn Lake Road  Sidewalk Number: 09-10-329-006
Total Acreage: 0.45  Length of Ownership by Current Property Owner: 11 Years, 1 Months
Does the owner have control over any properties adjoining this site? NO
Zoning Ordinance Allowance/Requirement 10'  Deviation requested ~5'4"
Case #: 

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. To build an addition over the current garage.

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. We are trying to follow the garage line presently there. We would like to use the whole space.

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: We would not be blocking sight lines to the lake, for any properties.

4. Explain how the request is/is not consistent with other properties in the immediate area, please cite examples if possible:

The garage is closer to the property line than other houses in the area, but the garage was built prior to us purchasing our home.

5. Describe how the alleged practical difficulty has not been self-created. The garage was already there. We are not increasing the deficiency. We are trying to increase living space within our current footprint.

6. The topography of said land makes the setbacks impossible to meet because: not applicable

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 are not allowed to add the living space, it would be burdensome to my family. We have young children and we would like to have our bedrooms all on the same level.
Case #: 

8. Have there been any previous appeals involving this property? If so, when? 09/1992 - 5' side yard setback

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

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: 4/01/21

Print Name: ___________________________

Signature of Property Owner: ___________________________ Date: 4/01/21

Print Name: ___________________________

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: ________________________

Page 3 of 8

Version 5/10/19
Section 6.04 – Area and Bulk Requirements (amended 01.05.87, 02.17.94, 02.07.95, 07.16.18)

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

<table>
<thead>
<tr>
<th></th>
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<tr>
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<td>14,000 sq. ft.</td>
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<tr>
<td>Minimum Width of Lot</td>
<td>100 ft.</td>
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<td>70 ft.</td>
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<tr>
<td>Minimum Lot Setbacks (in feet)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard**</td>
<td>40 ft.</td>
<td>35 ft.</td>
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<td>All Accessory Buildings</td>
<td></td>
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</tr>
<tr>
<td>Height of Structures</td>
<td>30 ft.</td>
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</tbody>
</table>

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

Section 6.05 – Sign Regulation (amended 10.08.98, 02.21.06)

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

Section 6.06 – Tree Preservation Regulations (amended 08.03.00)

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

Section 6.07 – Wetland Setbacks (added 09.17.07)

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 3, 2021

SUBJECT: Staff Report for AB-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks, 09-10-204-016

The applicant is seeking a variance prior to purchasing the property. The property owner has signed the application and has given the applicant permission to act on her behalf.

Currently there is a detached garage on the property which the applicant will remove to construct a new home with an attached garage and a deck. Lot coverage maximum of 25% is ok. Lot coverage was calculated using the square footage of the new home, attached garage and deck.

Please note that the parcel was larger however the Road Commission acquired 25 feet of the property along Shady Oaks Drive in 1988. Because the property is now narrower along Shady Oaks, the applicant will not be able meet the required setback on that side.

The property has two front yards – Dollar Bay Drive and Shady Oaks Drive. Therefore, the new home and attached garage has to meet the 30-ft. front yard setback from Dollar Bay and Shady Oaks. The rear yard is being declared as the lake side.

The plans show that the attached garage will be 17.4-ft. away from the Shady Oaks property line (a variance of 12.6-ft.) however the applicant is seeking a variance of 17.1-ft. for the house to be 12.9-ft. away from the Shady Oaks property line. If that variance is approved, it will cover the deviation for the attached garage.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 3, 2021

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

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-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks Street, 09-10-204-016, I move that the petitioner’s request for:

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).

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-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay & shady Oaks Street, 09-10-204-016, I move that the petitioner's request for:

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).

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: Aaron Clark
Address: 5152 Hidden Ridge Dr City/State/Zip: Macomb, MI 48055
Phone: Cell: 248-907-6952 Fax:
Email:

PROPERTY OWNER(S)
Name(s): Barbara Cotter
Address: 964 Pine Tree Dr City/State/Zip: Lake Orion, MI 48362
Phone: Cell: 248-693-1952 Fax:
Email: Cotterski.ehotmail.com

CONTACT PERSON FOR REQUEST
Name: Aaron Clark Phone: 248-907-6952 Email: ACCONTRACTINGSERVICES@gmail.com

SUBJECT PROPERTY
Address: 00 Dollar Bay Drive Sidewall Number: 09-10-204-016
Total Acreage: Length of Ownership by Current Property Owner: Years, Months

Does the owner have control over any properties adjoining this site? 
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. Apply for a side set back variance


2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. The lot at one time had 70 ft frontage. Road commission put in a street and took 25 ft away from front of the parcel

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: It will be a new building and will not impede the neighbors or the street.

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: The home will be consistent with others in the area

5. Describe how the alleged practical difficulty has not been self-created. Because a street was put in and took 25 ft of front property

6. The topography of said land makes the setbacks impossible to meet because: Because of the street

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 the side set backs of a corner lot can't be put
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: Aaron Clark Date: 4-9-2021
Print Name: Aaron Clark

Signature of Property Owner: [Signature] Date: 4/9/21
Print Name: [Signature]

If applicable: I the property owner, hereby give permission to Aaron Clark 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:  

Page 3 of 3
Version 5/10/18
Section 6.04 – Area and Bulk Requirements  

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

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

Section 6.05 – Sign Regulation  

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

Section 6.06 – Tree Preservation Regulations  

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

Section 6.07 – Wetland Setbacks  

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
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 07/16/13)

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)
09-10-204-016  Dollar Bay  .206 acres
Owner: Barbara Cotter

2510  2,243.34

Lot
Front 30' meets the front on dollar bay dr.
Side 10' west side is 10' OK
Rear 35' OK

House 995.5
Garage 994.00 will it be attached - variance for size
Porch 7.5 x 5.42 = 40.65
Deck 11 x 7 = 77

2,107.15 lot coverage OK

Property has 2 front yards - Dollar Bay Dr
& Shady Oaks street - Applicant does not
own it; he does not want to purchase
unless he can get the variance(s). - Not
Rico taking a portion of the property -
existing garage will be removed

Declaring rear is the lakeside and front as
the road side
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 4, 2021
SUBJECT: Staff Report for AB-2021-15 thru AB-2021-19

These requests are to build 2-unit condominiums on vacant land within the Royal Troon community.

Per recorded documents for this development, the front yard setback is 25-ft.; the rear yard setback is 30-ft., and the distance between a 2-unit condominium to the neighboring 2-unit condominium is 30-ft.

Each 2-unit condominium is being reviewed as a separate case. The side setback distances are from a 2-unit condominium to the neighboring 2-unit condominium.

The rear yard setback is taken from the rear property line to the closest point of the 2-unit condominium. In some cases, that will be to the “proposed porch”.

As these are true condominiums, lot coverage is not factor as it pertains to the construction of these units. The sidewalk numbers are for each individual condominium home.

Some of the supporting documents will be the same for each case.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

RE: AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidewell numbers 09-04-402-033 & 34

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-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burnish Ln., sidwell numbers 09-04-402-033 & 034, I move that the petitioner's request for:

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.

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-2021-15, MacLeish Building Inc., Vacant Property North of unit 32
Burniah Ln., 09-04-402-033 & 034, I move that the petitioner’s request for:

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.

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, impar 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: MacLeish Building Inc.
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

PROPERTY OWNER(S)

Name(s): JDT Company LLC - MacLeish Building Managing Company
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

CONTACT PERSON FOR THIS REQUEST

Name: Daniel D. MacLeish Phone: 248-524-3244 Email: admin@macleishbuilding.com

SUBJECT PROPERTY

Address: 112 & 110 Burniah Lane Sidewall Number: 09-04-402-033/34
Total Acreage: N/A Length of Ownership by Current Property Owner: 12 Years, 5 Months
Does the owner have control over any properties adjoining this site? Turnberry
Zoning Ordinance Allowance/Requirement Deviation requested
Case #: __________________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.  SEE ATTACHED

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.  SEE ATTACHED

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:  SEE ATTACHED

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible:  SEE ATTACHED

5. Describe how the alleged practical difficulty has not been self-created.  SEE ATTACHED

6. The topography of said land makes the setbacks impossible to meet because:  SEE ATTACHED

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.  SEE ATTACHED
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]
(must be original ink signature) Date: 03/26/2021

Print Name: Daniel D. MacLeish II

Signature of Property Owner: [Signature]
(must be original ink signature) Date: 03/26/2021

Print Name: Daniel D. MacLeish Sr. - Owner/Managing Partner - JDT

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

OFFICE USE ONLY

Zoning Classification of property: [Classification]
Adjacent Zoning: N. S. E. W.

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

Description of variance(s):
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Date Filed: [Date] Fee Paid: [Amount] Receipt Number: [Number]
1. Applicant requests a variance of the "stated" side yard setbacks from 30ft to less than 30ft, but not less than 20ft, as in the site plan which accompanies this application.

2. Applicant's Unit is in a development consisting of duplex condominium units, two units in each building. There are no private yards. The spaces between buildings are Common Elements under a Master Deed and are maintained by the Homeowner's Association. The set back applicable to Applicant's building does not allow for buildings acceptable to the market that exists today. For that reason no new construction has been feasible on these sites for over 20+ years due to the sites being unworkable for today's modern condominium floor plan.

3. It is common and customary to allow flexibility for setback in a condominium so long as setbacks from outside properties are preserved. Thirty foot existing setbacks between the buildings in the Royal Troon Condominium and the boundaries of the Condominium are preserved. Therefore, no residents of areas outside the condominium are affected. Within the condominium the units are all zero lot line on one side of the resident's buildings. A 20 foot or greater set back from the neighboring building is sufficient for health and safety. The loss of set back is outweighed by the advantage to residents of having the condominium fully built out instead of the current look of an unsuccessful or abandoned project. Moreover the homes to be built will have the quality of existing homes as to design, materials and size. Sizes will be the same but units will be one story instead of one and a half stories.

4. Some of the buildings in the condominium development already have less than a thirty foot set back. All the units have zero setbacks on one side. There is no reason to equate the side yard requirements/setbacks of Royal Troon with other surrounding single family developments. The variance will allow for a more modern, up to date product to be built having the greatest appeal to new home buyers looking for a condominium development. The units Applicant proposes are single story vs. 1.5 stories but sized similarly to still maintain the same square footage of the older 1.5 story existing units. A large portion of the condominium market is looking for a single story, ranch style floor plan for ease of use, cleaning and maintaining the property. The newer proposed units are more likely to be sold than those with the prior design due to the popularity of this single story, open floor plan concept and style which resonates with condominium buyers today. This product will cost more than the existing units to construct but will enhance and add value to the existing condominium units upon completion. This design when built will likely have a greater taxable value for real property tax purposes. The proposed new floor plan is very consistent with the other properties in meeting the same or similar square footage; essential common rooms, i.e. kitchen, dining & great room, and laundry; along with 2-3 bedrooms (2 bedrooms with a flex room as optional 3rd bedroom). A similar development Applicant just completed in Rochester Hills was done successfully by similarly coming into an existing established development and providing a new, updated floor plan and elevation. The new condominium units were very well received by the association and community and added value to the existing condominiums by completing and finishing out the remaining building sites. An example of similar ranch condominium developments is Pulte's duplex condominium development on M-24, South of Silverbell Rd.
5. The original developer built the existing units in the Royal Troon Development with some buildings having less than a 30ft. side yard setback requirement. The original developer configured and located buildings in a manner which made thirty foot set backs for the unbuilt areas impossible or impractical. Applicant bought the remaining units from a foreclosure. The market demands have changed since the condominium was first developed. One and a half story units are not sellable. See also the following paragraph.

6. The curvature of the access road mandates a variation in parallel side yard setbacks that are equal and consistent with the stated setbacks. The road curvatures were due to the practicality of developing on an existing golf course. In the past, in order to build on the vacant sites, “the stated side yard setbacks” of the existing condominiums had been reduced to accommodate an appropriate and desirable sized product for the new home buyers at the time. This was the practical resolution and still is due to the difficulty of creating a desirable product for practical living that would adhere to the stated setbacks.

7. The requested variances are dimensional rather than use variances. For the reasons given above Applicant faces practical difficulty if required to adhere to the prior thirty foot standard. It would be impossible today to comply with the current side yard setbacks. One would have to reduce the size of the units to an unmarketable first floor size, and then create a second story in order to provide enough square footage/space for additional bedrooms. This creates a detriment in selling this product to many of the “empty nesters” that make up the majority of condominium buying in this area. They do not want to climb stairs to clean, maintain or use the second level. Applicant’s 40 ft wide unit that has been built successfully in other developments is successfully overcoming this detriment. The size and proportions of the floor plan were well liked and helped make the project very desirable and saleable. In addition, Applicant has refined the floor plan, mechanical systems, and building structure, etc. to provide a more energy efficient and contemporary product which today’s market demands.
Charter Township of Orion
Planning Division
2525 Joslyn Rd., Lake Orion MI 48360
P: (248) 391-0304 ext. 5001; Fax (248) 391-1454

MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 4, 2021
SUBJECT: Staff Report for AB-2021-15 thru AB-2021-19

These requests are to build 2-unit condominiums on vacant land within the Royal Troon community.

Per recorded documents for this development, the front yard setback is 25-ft.; the rear yard setback is 30-ft., and the distance between a 2-unit condominium to the neighboring 2-unit condominium is 30-ft.

Each 2-unit condominium is being reviewed as a separate case. The side setback distances are from a 2-unit condominium to the neighboring 2-unit condominium.

The rear yard setback is taken from the rear property line to the closest point of the 2-unit condominium. In some cases, that will be to the “proposed porch”.

As these are true condominiums, lot coverage is not factor as it pertains to the construction of these units. The sidewall numbers are for each individual condominium home.

Some of the supporting documents will be the same for each case.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

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

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-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidewell numbers 09-04-402-035 & 036, I move that the petitioner’s request for:

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

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-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidwell numbers 09-04-402-035 & 036, I move that the petitioner's request for:

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

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: MacLeish Building Inc.
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244  Cell:  Fax: 248-524-2345
Email: admin@macleishbuilding.com

PROPERTY OWNER(S)

Name(s): JDT Company LLC - MacLeish Building Managing Company
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244  Cell:  Fax: 248-524-2345
Email: admin@macleishbuilding.com

CONTACT PERSON FOR THIS REQUEST

Name: Daniel D. MacLeish  Phone: 248-524-3244  Email: admin@macleishbuilding.com

SUBJECT PROPERTY

Address: 102 & 100 Burniah Lane  Sidewell Number: 09-04-402-035/36

Total Acreage: N/A  Length of Ownership by Current Property Owner: 12 Years, 6 Months

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

Zoning Ordinance

Allowance/Requirement  Deviation requested
Case #: ____________________

8. Have there been any previous appeals involving this property? If so, when? ______________________________________________

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: 03/26/2021

Print Name: Daniel D. MacLeish II

Signature of Property Owner: ___________________________ Date: 03/26/2021

Print Name: Daniel D. MacLeish Sr. - Owner/Managing Partner - JDT

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: ___________________________
1. Applicant requests a variance of the "stated" side yard setbacks from 30ft to less than 30ft, but not less than 20ft, as in the site plan which accompanies this application.

2. Applicant's Unit is in a development consisting of duplex condominium units, two units in each building. There are no private yards. The spaces between buildings are Common Elements under a Master Deed and are maintained by the Homeowner's Association. The set back applicable to Applicant's building does not allow for buildings acceptable to the market that exists today. For that reason no new construction has been feasible on these sites for over 20+ years due to the sites being unworkable for today's modern condominium floor plan.

3. It is common and customary to allow flexibility for setback in a condominium so long as setbacks from outside properties are preserved. Thirty foot existing setbacks between the buildings in the Royal Troon Condominium and the boundaries of the Condominium are preserved. Therefore, no residents of areas outside the condominium are affected. Within the condominium the units are all zero lot line on one side of the resident's buildings. A 20 foot or greater set back from the neighboring building is sufficient for health and safety. The loss of set back is outweighed by the advantage to residents of having the condominium fully built out instead of the current look of an unsuccessful or abandoned project. Moreover the homes to be built will have the quality of existing homes as to design, materials and size. Sizes will be the same but units will be one story instead of one and a half stories.

4. Some of the buildings in the condominium development already have less than a thirty foot set back. All the units have zero setbacks on one side. There is no reason to equate the side yard requirements/setbacks of Royal Troon with other surrounding single family developments. The variance will allow for a more modern, up to date product to be built having the greatest appeal to new home buyers looking for a condominium development. The units Applicant proposes are single story vs. 1.5 stories but sized similarly to still maintain the same square footage of the older 1.5 story existing units. A large portion of the condominium market is looking for a single story, ranch style floor plan for ease of use, cleaning and maintaining the property. The newer proposed units are more likely to be sold than those with the prior design due to the popularity of this single story, open floor plan concept and style which resonates with condominium buyers today. This product will cost more than the existing units to construct but will enhance and add value to the existing condominium units upon completion. This design when built will likely have a greater taxable value for real property tax purposes. The proposed new floor plan is very consistent with the other properties in meeting the same or similar square footage; essential common rooms, i.e. kitchen, dining & great room, and laundry; along with 2-3 bedrooms (2 bedrooms with a flex room as optional 3rd bedroom). A similar development Applicant just completed in Rochester Hills was done successfully by similarly coming into an existing established development and providing a new, updated floor plan and elevation. The new condominium units were very well received by the association and community and added value to the existing condominiums by completing and finishing out the remaining building sites. An example of similar ranch condominium developments is Pulte's duplex condominium development on M-24, South of Silverbell Rd.
5. The original developer built the existing units in the Royal Troon Development with some buildings having less than a 30ft. side yard setback requirement. The original developer configured and located buildings in a manner which made thirty foot set backs for the unbuilt areas impossible or impractical. Applicant bought the remaining units from a foreclosure. The market demands have changed since the condominium was first developed. One and a half story units are not sellable. See also the following paragraph.

6. The curvature of the access road mandates a variation in parallel side yard setbacks that are equal and consistent with the stated setbacks. The road curvatures were due to the practicality of developing on an existing golf course. In the past, in order to build on the vacant sites, “the stated side yard setbacks” of the existing condominiums had been reduced to accommodate an appropriate and desirable sized product for the new home buyers at the time. This was the practical resolution and still is due to the difficulty of creating a desirable product for practical living that would adhere to the stated setbacks.

7. The requested variances are dimensional rather than use variances. For the reasons given above Applicant faces practical difficulty if required to adhere to the prior thirty foot standard. It would be impossible today to comply with the current side yard setbacks. One would have to reduce the size of the units to an unmarketable first floor size, and then create a second story in order to provide enough square footage/space for additional bedrooms. This creates a detriment in selling this product to many of the “empty nesters” that make up the majority of condominium buying in this area. They do not want to climb stairs to clean, maintain or use the second level. Applicant’s 40 ft wide unit that has been built successfully in other developments is successfully overcoming this detriment. The size and proportions of the floor plan were well liked and helped make the project very desirable and saleable. In addition, Applicant has refined the floor plan, mechanical systems, and building structure, etc. to provide a more energy efficient and contemporary product which today’s market demands.
Case #: 

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.  SEE ATTACHED

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.  SEE ATTACHED

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:  SEE ATTACHED

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

                        SEE ATTACHED

5. Describe how the alleged practical difficulty has not been self-created.  SEE ATTACHED

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

                        SEE ATTACHED

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.  SEE ATTACHED
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 4, 2021
SUBJECT: Staff Report for AB-2021-15 thru AB-2021-19

These requests are to build 2-unit condominiums on vacant land within the Royal Troon community.

Per recorded documents for this development, the front yard setback is 25-ft.; the rear yard setback is 30-ft., and the distance between a 2-unit condominium to the neighboring 2-unit condominium is 30-ft.

Each 2-unit condominium is being reviewed as a separate case. The side setback distances are from a 2-unit condominium to the neighboring 2-unit condominium.

The rear yard setback is taken from the rear property line to the closest point of the 2-unit condominium. In some cases, that will be to the "proposed porch".

As these are true condominiums, lot coverage is not a factor as it pertains to the construction of these units. The sidewell numbers are for each individual condominium home.

Some of the supporting documents will be the same for each case.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

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

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-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037-038. I move that the petitioner's request for:

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.

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:

________________________________________________________________________

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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-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037 & 038, I move that the petitioner's request for:

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. A 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. A 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.

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: MacLeish Building Inc.
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

PROPERTY OWNER(S)
Name(s): JDT Company LLC - MacLeish Building Managing Company
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

CONTACT PERSON FOR THIS REQUEST
Name: Daniel D. MacLeish Phone: 248-524-3244 Email: admin@macleishbuilding.com

SUBJECT PROPERTY
Address: 92 & 90 Burniah Lane Sidewell Number: 09-04-402-037/38
Total Acreage: N/A Length of Ownership by Current Property Owner: 12 Years, 6 Months

Does the owner have control over any properties adjoining this site? Turnberry
Zoning Ordinance Allowance/Requirement Deviation requested
Case #: ________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.  SEE ATTACHED

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.  SEE ATTACHED

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:  SEE ATTACHED

4. Explain how the request is not consistent with other properties in the immediate area, please site examples if possible:  SEE ATTACHED

5. Describe how the alleged practical difficulty has not been self-created.  SEE ATTACHED

6. The topography of said land makes the setbacks impossible to meet because:  SEE ATTACHED

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.  SEE ATTACHED
8. Have there been any previous appeals involving this property? If so, when?

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

If 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)  

Print Name:  Daniel D. MacLeish II  

Date: 03/26/2021

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

Print Name:  Daniel D. MacLeish Sr. - Owner/Managing Partner - JDT  

Date: 03/26/2021

If applicable:  
I the property owner, hereby give permission to  

[Signature] 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:  

Page 3 of 3
Version 3/10/18
1. Applicant requests a variance of the "stated" side yard setbacks from 30ft to less than 30ft, but not less than 20ft, as in the site plan which accompanies this application.

2. Applicant's Unit is in a development consisting of duplex condominium units, two units in each building. There are no private yards. The spaces between buildings are Common Elements under a Master Deed and are maintained by the Homeowner's Association. The set back applicable to Applicant's building does not allow for buildings acceptable to the market that exists today. For that reason no new construction has been feasible on these sites for over 20+ years due to the sites being unworkable for today's modern condominium floor plan.

3. It is common and customary to allow flexibility for setback in a condominium so long as setbacks from outside properties are preserved. Thirty foot existing setbacks between the buildings in the Royal Troon Condominium and the boundaries of the Condominium are preserved. Therefore, no residents of areas outside the condominium are affected. Within the condominium the units are all zero lot line on one side of the resident's buildings. A 20 foot or greater set back from the neighboring building is sufficient for health and safety. The loss of set back is outweighed by the advantage to residents of having the condominium fully built out instead of the current look of an unsuccessful or abandoned project. Moreover the homes to be built will have the quality of existing homes as to design, materials and size. Sizes will be the same but units will be one story instead of one and a half stories.

4. Some of the buildings in the condominium development already have less than a thirty foot setback. All the units have zero setbacks on one side. There is no reason to equate the side yard requirements/setbacks of Royal Troon with other surrounding single family developments. The variance will allow for a more modern, up to date product to be built having the greatest appeal to new home buyers looking for a condominium development. The units Applicant proposes are single story vs. 1.5 stories but sized similarly to still maintain the same square footage of the older 1.5 story existing units. A large portion of the condominium market is looking for a single story, ranch style floor plan for ease of use, cleaning and maintaining the property. The newer proposed units are more likely to be sold than those with the prior design due to the popularity of this single story, open floor plan concept and style which resonates with condominium buyers today. This product will cost more than the existing units to construct but will enhance and add value to the existing condominium units upon completion. This design when built will likely have a greater taxable value for real property tax purposes. The proposed new floor plan is very consistent with the other properties in meeting the same or similar square footage; essential common rooms, i.e. kitchen, dining & great room, and laundry; along with 2-3 bedrooms (2 bedrooms with a flex room as optional 3rd bedroom). A similar development Applicant just completed in Rochester Hills was done successfully by similarly coming into an existing established development and providing a new, updated floor plan and elevation. The new condominium units were very well received by the association and community and added value to the existing condominiums by completing and finishing out the remaining building sites. An example of similar ranch condominium developments is Pulte’s duplex condominium development on M-24, South of Silverbell Rd.
5. The original developer built the existing units in the Royal Troon Development with some buildings having less than a 30ft. side yard setback requirement. The original developer configured and located buildings in a manner which made thirty foot set backs for the unbuilt areas impossible or impractical. Applicant bought the remaining units from a foreclosure. The market demands have changed since the condominium was first developed. One and a half story units are not sellable. See also the following paragraph.

6. The curvature of the access road mandates a variation in parallel side yard setbacks that are equal and consistent with the stated setbacks. The road curvatures were due to the practicality of developing on an existing golf course. In the past, in order to build on the vacant sites, "the stated side yard setbacks" of the existing condominiums had been reduced to accommodate an appropriate and desirable sized product for the new home buyers at the time. This was the practical resolution and still is due to the difficulty of creating a desirable product for practical living that would adhere to the stated setbacks.

7. The requested variances are dimensional rather than use variances. For the reasons given above Applicant faces practical difficulty if required to adhere to the prior thirty foot standard. It would be impossible today to comply with the current side yard setbacks. One would have to reduce the size of the units to an unmarketable first floor size, and then create a second story in order to provide enough square footage/space for additional bedrooms. This creates a detriment in selling this product to many of the "empty nesters" that make up the majority of condominium buying in this area. They do not want to climb stairs to clean, maintain or use the second level. Applicant’s 40 ft wide unit that has been built successfully in other developments is successfully overcoming this detriment. The size and proportions of the floor plan were well liked and helped make the project very desirable and saleable. In addition, Applicant has refined the floor plan, mechanical systems, and building structure, etc. to provide a more energy efficient and contemporary product which today's market demands.
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 4, 2021
SUBJECT: Staff Report for AB-2021-15 thru AB-2021-19

These requests are to build 2-unit condominiums on vacant land within the Royal Troon community.

Per recorded documents for this development, the front yard setback is 25-ft.; the rear yard setback is 30-ft., and the distance between a 2-unit condominium to the neighboring 2-unit condominium is 30-ft.

Each 2-unit condominium is being reviewed as a separate case. The side setback distances are from a 2-unit condominium to the neighboring 2-unit condominium.

The rear yard setback is taken from the rear property line to the closest point of the 2-unit condominium. In some cases, that will be to the “proposed porch”.

As these are true condominiums, lot coverage is not factor as it pertains to the construction of these units. The sidwell numbers are for each individual condominium home.

Some of the supporting documents will be the same for each case.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

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

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 # AR-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidewalk numbers 09-04-402-401 & 042 I move that the petitioner’s request for:

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).

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-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidewalk numbers 09-04-402-041 & 042, I move that the petitioner’s request for:

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).

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: MacLeish Building Inc.
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

PROPERTY OWNER(S)
Name(s): JDT Company LLC - MacLeish Building Managing Company
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

CONTACT PERSON FOR THIS REQUEST
Name: Daniel D. MacLeish Phone: 248-524-3244 Email: admin@macleishbuilding.com

SUBJECT PROPERTY
Address: 72 & 70 Burniah Lane Sidewell Number: 09-04-402-041/42
Total Acreage: N/A Length of Ownership by Current Property Owner: 12 Years, 6 Months

Does the owner have control over any properties adjoining this site? Turnberry
Zoning Ordinance Allowance/Requirement Deviation requested
Case #: __________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. SEE ATTACHED


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. SEE ATTACHED


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: SEE ATTACHED


4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: SEE ATTACHED


5. Describe how the alleged practical difficulty has not been self-created. SEE ATTACHED


6. The topography of said land makes the setbacks impossible to meet because: SEE ATTACHED


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. SEE ATTACHED


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Version 3/10/18
Case #: __________________

8. Have there been any previous appeals involving this property? If so, when? __________________

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: 03/26/2021

Print Name: Daniel D. MacLeish II

Signature of Property Owner: ____________________________ Date: 03/26/2021

Print Name: Daniel D. MacLeish Sr. - Owner/Managing Partner - JDT

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: ________________
1. Applicant requests a variance of the "stated" side yard setbacks from 30ft to less than 30ft, but not less than 20ft, as in the site plan which accompanies this application.

2. Applicant's Unit is in a development consisting of duplex condominium units, two units in each building. There are no private yards. The spaces between buildings are Common Elements under a Master Deed and are maintained by the Homeowner's Association. The set back applicable to Applicant's building does not allow for buildings acceptable to the market that exists today. For that reason no new construction has been feasible on these sites for over 20+ years due to the sites being unworkable for today's modern condominium floor plan.

3. It is common and customary to allow flexibility for setback in a condominium so long as setbacks from outside properties are preserved. Thirty foot existing setbacks between the buildings in the Royal Troon Condominium and the boundaries of the Condominium are preserved. Therefore, no residents of areas outside the condominium are affected. Within the condominium the units are all zero lot line on one side of the resident's buildings. A 20 foot or greater set back from the neighboring building is sufficient for health and safety. The loss of set back is outweighed by the advantage to residents of having the condominium fully built out instead of the current look of an unsuccessful or abandoned project. Moreover the homes to be built will have the quality of existing homes as to design, materials and size. Sizes will be the same but units will be one story instead of one and a half stories.

4. Some of the buildings in the condominium development already have less than a thirty foot set back. All the units have zero setbacks on one side. There is no reason to equate the side yard requirements/setbacks of Royal Troon with other surrounding single family developments. The variance will allow for a more modern, up to date product to be built having the greatest appeal to new home buyers looking for a condominium development. The units Applicant proposes are single story vs. 1.5 stories but sized similarly to still maintain the same square footage of the older 1.5 story existing units. A large portion of the condominium market is looking for a single story, ranch style floor plan for ease of use, cleaning and maintaining the property. The newer proposed units are more likely to be sold than those with the prior design due to the popularity of this single story, open floor plan concept and style which resonates with condominium buyers today. This product will cost more than the existing units to construct but will enhance and add value to the existing condominium units upon completion. This design when built will likely have a greater taxable value for real property tax purposes. The proposed new floor plan is very consistent with the other properties in meeting the same or similar square footage; essential common rooms, i.e. kitchen, dining & great room, and laundry; along with 2-3 bedrooms (2 bedrooms with a flex room as optional 3rd bedroom). A similar development Applicant just completed in Rochester Hills was done successfully by similarly coming into an existing established development and providing a new, updated floor plan and elevation. The new condominium units were very well received by the association and community and added value to the existing condominiums by completing and finishing out the remaining building sites. An example of similar ranch condominium developments is Pulte's duplex condominium development on M-24, South of Silverbell Rd.
5. The original developer built the existing units in the Royal Troon Development with some buildings having less than a 30ft. side yard setback requirement. The original developer configured and located buildings in a manner which made thirty foot set backs for the unbuilt areas impossible or impractical. Applicant bought the remaining units from a foreclosure. The market demands have changed since the condominium was first developed. One and a half story units are not sellable. See also the following paragraph.

6. The curvature of the access road mandates a variation in parallel side yard setbacks that are equal and consistent with the stated setbacks. The road curvatures were due to the practicality of developing on an existing golf course. In the past, in order to build on the vacant sites, “the stated side yard setbacks” of the existing condominiums had been reduced to accommodate an appropriate and desirable sized product for the new home buyers at the time. This was the practical resolution and still is due to the difficulty of creating a desirable product for practical living that would adhere to the stated setbacks.

7. The requested variances are dimensional rather than use variances. For the reasons given above, Applicant faces practical difficulty if required to adhere to the prior thirty foot standard. It would be impossible today to comply with the current side yard setbacks. One would have to reduce the size of the units to an unmarketable first floor size, and then create a second story in order to provide enough square footage/space for additional bedrooms. This creates a detriment in selling this product to many of the “empty nesters” that make up the majority of condominium buying in this area. They do not want to climb stairs to clean, maintain or use the second level. Applicant’s 40 ft wide unit that has been built successfully in other developments is successfully overcoming this detriment. The size and proportions of the floor plan were well liked and helped make the project very desirable and saleable. In addition, Applicant has refined the floor plan, mechanical systems, and building structure, etc. to provide a more energy efficient and contemporary product which today’s market demands.
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

SUBJECT: Staff Report for AB-2021-15 thru AB-2021-19

These requests are to build 2-unit condominiums on vacant land within the Royal Troon community.

Per recorded documents for this development, the front yard setback is 25-ft.; the rear yard setback is 30-ft., and the distance between a 2-unit condominium to the neighboring 2-unit condominium is 30-ft.

Each 2-unit condominium is being reviewed as a separate case. The side setback distances are from a 2-unit condominium to the neighboring 2-unit condominium.

The rear yard setback is taken from the rear property line to the closest point of the 2-unit condominium. In some cases, that will be to the “proposed porch”.

As these are true condominiums, lot coverage is not factor as it pertains to the construction of these units. The sidwell numbers are for each individual condominium home.

Some of the supporting documents will be the same for each case.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

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

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-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidwell numbers 09-04-402-047 & 048, I move that the petitioner's request for:

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.

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

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-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidwell numbers 09-04-402-047 & 048, I move that the petitioner’s request for:

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

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, impar 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: MacLeish Building Inc.
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

PROPERTY OWNER(S)
Name(s): JDT Company LLC - MacLeish Building Managing Company
Address: 650 E. Big Beaver Rd. Suite F City/State/Zip: Troy, MI 48083
Phone: 248-524-3244 Cell: Fax: 248-524-2345
Email: admin@macleishbuilding.com

CONTACT PERSON FOR THIS REQUEST
Name: Daniel D. MacLeish Phone: 248-524-3244 Email: admin@macleishbuilding.com

SUBJECT PROPERTY
Address: 42 & 40 Burniah Lane Sidewell Number: 09-04-402-047/48
Total Acreage: N/A Length of Ownership by Current Property Owner: 12 Years, 6 Months
Does the owner have control over any properties adjoining this site? Turnberry
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.  
   SEE ATTACHED

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.  
   SEE ATTACHED

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:  
   SEE ATTACHED

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible:  
   SEE ATTACHED

5. Describe how the alleged practical difficulty has not been self-created.  
   SEE ATTACHED

6. The topography of said land makes the setbacks impossible to meet because:  
   SEE ATTACHED

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.  
   SEE ATTACHED
Case #: __________________

8. Have there been any previous appeals involving this property? If so, when? ____________________________

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

If 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: 03/26/2021

Print Name: Daniel D. MacLeish II

Signature of Property Owner: ____________________________ Date: 03/26/2021

Print Name: Daniel D. MacLeish Sr. - Owner/Managing Partner - JDT

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: ____________________________
1. Applicant requests a variance of the "stated" side yard setbacks from 30ft to less than 30ft, but not less than 20ft, as in the site plan which accompanies this application.

2. Applicant’s Unit is in a development consisting of duplex condominium units, two units in each building. There are no private yards. The spaces between buildings are Common Elements under a Master Deed and are maintained by the Homeowner’s Association. The set back applicable to Applicant’s building does not allow for buildings acceptable to the market that exists today. For that reason No new construction has been feasible on these sites for over 20+ years due to the sites being unworkable for today’s modern condominium floor plan.

3. It is common and customary to allow flexibility for setback in a condominium so long as setbacks from outside properties are preserved. Thirty foot existing setbacks between the buildings in the Royal Troon Condominium and the boundaries of the Condominium are preserved. Therefore, no residents of areas outside the condominium are affected. Within the condominium the units are all zero lot line on one side of the resident’s buildings. A 20 foot or greater set back from the neighboring building is sufficient for health and safety. The loss of set back is outweighed by the advantage to residents of having the condominium fully built out instead of the current look of an unsuccessful or abandoned project. Moreover the homes to be built will have the quality of existing homes as to design, materials and size. Sizes will be the same but units will be one story instead of one and a half stories.

4. Some of the buildings in the condominium development already have less than a thirty foot setback. All the units have zero setbacks on one side. There is no reason to equate the side yard requirements/setbacks of Royal Troon with other surrounding single family developments. The variance will allow for a more modern, up to date product to be built having the greatest appeal to new home buyers looking for a condominium development. The units Applicant proposes are single story vs. 1.5 stories but sized similarly to still maintain the same square footage of the older 1.5 story existing units. A large portion of the condominium market is looking for a single story, ranch style floor plan for ease of use, cleaning and maintaining the property. The newer proposed units are more likely to be sold than those with the prior design due to the popularity of this single story, open floor plan concept and style which resonates with condominium buyers today. This product will cost more than the existing units to construct but will enhance and add value to the existing condominium units upon completion. This design when built will likely have a greater taxable value for real property tax purposes. The proposed new floor plan is very consistent with the other properties in meeting the same or similar square footage; essential common rooms, i.e. kitchen, dining & great room, and laundry; along with 2-3 bedrooms (2 bedrooms with a flex room as optional 3rd bedroom). A similar development Applicant just completed in Rochester Hills was done successfully by similarly coming into an existing established development and providing a new, updated floor plan and elevation. The new condominium units were very well received by the association and community and added value to the existing condominiums by completing and finishing out the remaining building sites. An example of similar ranch condominium developments is Pulte’s duplex condominium development on M-24, South of Silverbell Rd.
5. The original developer built the existing units in the Royal Troon Development with some buildings having less than a 30ft. side yard setback requirement. The original developer configured and located buildings in a manner which made thirty foot set backs for the unbuilt areas impossible or impractical. Applicant bought the remaining units from a foreclosure. The market demands have changed since the condominium was first developed. One and a half story units are not sellable. See also the following paragraph.

6. The curvature of the access road mandates a variation in parallel side yard setbacks that are equal and consistent with the stated setbacks. The road curvatures were due to the practicality of developing on an existing golf course. In the past, in order to build on the vacant sites, “the stated side yard setbacks” of the existing condominiums had been reduced to accommodate an appropriate and desirable sized product for the new home buyers at the time. This was the practical resolution and still is due to the difficulty of creating a desirable product for practical living that would adhere to the stated setbacks.

7. The requested variances are dimensional rather than use variances. For the reasons given above Applicant faces practical difficulty if required to adhere to the prior thirty foot standard. It would be impossible today to comply with the current side yard setbacks. One would have to reduce the size of the units to an unmarketable first floor size, and then create a second story in order to provide enough square footage/pace for additional bedrooms. This creates a detriment in selling this product to many of the “empty nesters” that make up the majority of condominium buying in this area. They do not want to climb stairs to clean, maintain or use the second level. Applicant’s 40 ft wide unit that has been built successfully in other developments is successfully overcoming this detriment. The size and proportions of the floor plan were well liked and helped make the project very desirable and saleable. In addition, Applicant has refined the floor plan, mechanical systems, and building structure, etc. to provide a more energy efficient and contemporary product which today’s market demands.
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 4, 2021
SUBJECT: Staff Report for AB-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr.

The applicant is proposing to remove the existing house and construct a new house with attached garage and lanai. There is an existing shed with a deck that will remain along the east property line.

To bring the existing shed and deck into compliance with Ordinance #78, the applicant is seeking two side yard setback variances – items #1 & #2.

The applicant’s plans to construct a new house, attached garage and lanai fall under the 25% lot coverage maximum.

The proposed attached garage will not be more than 75% of the size of the house and the attached garage height complies with the Ordinance as Section 27.02 (A)(5) does not apply to attached accessory structures.

The proposed plans for the house, attached garage and lanai meet the front yard setback, the rear yard setback, both side yard setbacks and the setback from the water’s edge.

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: May 4, 2021
RE: AB-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013

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-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013, I move that the petitioner’s request for:

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.

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-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013, I move that the petitioner’s request for:

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.

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: Michael Schwarzenberger
Address: 1032 S. Long Lake Blvd, City/State/Zip: Lake Orion, MI 48362
Phone: 248-941-4862 Cell: Same Fax: 
Email: mikes852@yahoo.com

PROPERTY OWNER(S)

Name(s): Beth & Mike Schwarzenberger
Address: 400 Gan Eden Dr, City/State/Zip: Lake Orion, MI 48362
Phone: 248-941-4862 Cell: Same Fax: 
Email: mikes852@yahoo.com

CONTACT PERSON FOR THIS REQUEST

Name: Mike Schwarzenberger Phone: 248-941-4862 Email: mikes852@yahoo.com

SUBJECT PROPERTY

Address: 400 Gan Eden Dr. Sidewall Number: 09-02-226-013
Total Acreage: 1.04 Length of Ownership by Current Property Owner: 4 Years, 4 Months

Does the owner have control over any properties adjoining this site? No
Zoning Ordinance Allowance/Requirement 1500 Deviation requested 572
Case #: ________________________

**RESIDENTIAL VARIANCE**

1. Describe in detail the nature of the request. 1. **Dimensional variance of 0.6’ (approx. 8”) for encroachment of existing detached accessory structure into the 10’ required side setback**
   2. **Variance of 572 sq ft. for total accessory buildings (2072 proposed, 1500 max. allowed) as shown in the calculations.**

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. **We have wetlands on our property that impact the building area. All of our neighbors lots to our east will have no impact because of existing house locations. West, our neighbor next door (374 Gan Eden Dr.) approves of our proposed building plan. Greg and Erin Dombrowski**

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: **Our proposed design will meet all 4 of the conditions required for a variance listed under item 9a of section 27.02 (total lot coverage will be well below the maximum 25% as noted in item ii.)**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible:
   **A number of homes in the vicinity have large garages and detached accessory structures.**

5. Describe how the alleged practical difficulty has not been self-created.
   **When you look at our calculations the existing detached structure was constructed by a previous owner. The attached proposed structure falls within 75% of the principle structure. It is the combined total that puts us over.**

6. The topography of said land makes the setbacks impossible to meet because:
   **We meet all setbacks with proposed principle and attached accessory structure. It is the existing detached structure that is non-conforming (approximately 8” over setback).**

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 the variance is not approved we will have to demolish the detached structure. The zoning ordinance does allow the request. We are demonstrating that we meet the requirements for this approval.**
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: 
(must be original ink signature) 
Date: 4/8/21 

Print Name: Michael Schwarzenberger 

Signature of Property Owner: 
(must be original ink signature) 
Date: 4/8/21 4/170 

Print Name: Michael Schwarzenberger, Elizabeth Schwarzenberger 

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): 

DateFiled: Fee Paid: Receipt Number: 

Page 3 of 3 

Version 5/10/18
Article VI  Single Family Residential: R-1, R-2 & R-3

Section 6.04 – Area and Bulk Requirements  (amended 01.05.87, 02.17.04, 02.07.05, 07.16.18)

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

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

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

Section 6.05 – Sign Regulation  (amended 10.06.98, 02.21.06)

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

Section 6.06 – Tree Preservation Regulations  (amended 08.03.00)

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

Section 6.07 – Wetland Setbacks  (added 09.17.07)

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
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 30 85):

| LOT SIZE       | MAXIMUM FLOOR AREA OF DETACHED ACCESSORY BUILDINGS | MAXIMUM FLOOR AREA OF ATTACHED ACCESSORY BUILDINGS | TOTAL MAXIMUM FLOOR AREA OF ALL ACCESSORY BUILDINGS *
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Up to 1/2 acre</td>
<td>750 sq. ft.</td>
<td></td>
<td>1,150 sq. ft.</td>
</tr>
<tr>
<td>1/2 to 1 acre</td>
<td>900 sq. ft.</td>
<td></td>
<td>1,300 sq. ft.</td>
</tr>
<tr>
<td>1 to 2.5 acres</td>
<td>1,000 sq. ft.</td>
<td>75% of the principal structure</td>
<td>1,500 sq. ft.</td>
</tr>
<tr>
<td>Over 2.5 acres</td>
<td>1,400 sq. ft.</td>
<td></td>
<td>1,900 sq. ft.</td>
</tr>
</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 30 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 15)

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-2021-20  400 Gan Eden Dr  09-02-226-013

1.033 acres = 44,997.48'²  25%  11,249.37

Front 40'  ok
Rear 35'  ok
Side 10' House/Garage ok  # Shed/Deck  West side is 12'
All detached 1,000'
Attached 1,500'

This far will the new house be from the prop line to the west 12' ok

How far is the house from the water's edge 85' ok

The lani will be 60' from water's edge
The deck on the shed is 94' ok

House 3,250
Attached Garage 1,730
Detached Shed 342
Deck attached to Shed ?

Porch 1  98'² (14x7) 1,500
Porch 2  240'² (12x20)  # Attached Garage 1730-
Shed 342

5,660 LA coverage ok

572 variance

Garage will not be more than 75% of house
Garage is not taller than house
**Variance Calculation**

<table>
<thead>
<tr>
<th>Allowed Max Sq. Ft. of All Accessory Structures</th>
<th>1,500 sq. ft.</th>
<th>1,500 sq. ft.</th>
<th>1,500 sq. ft.</th>
<th>1,500 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Attached Garage</td>
<td>1,730-sq. ft.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Shed</td>
<td>342-sq. ft.</td>
<td>342-sq. ft.</td>
<td>342-sq. ft.</td>
<td>342-sq. ft.</td>
</tr>
<tr>
<td><strong>Variance</strong></td>
<td></td>
<td></td>
<td></td>
<td>572- sq. ft.</td>
</tr>
</tbody>
</table>
Dear Members of the Variance Board,

Upon review of the 3 variance requests, I find no reason to protest or deny approval.

In the matter of Article VI, section 6.04, the first request of the .6ft. side set back of shed to 9.4ft., I support approval of variance.

In the matter of the second request of the 3ft. side set back of deck to 7ft., I support approval of variance.
In the matter of Article XXVII section 27.02(A)(8), the third request of 572 sq. ft. above allowed 1500sq. ft. of garage & shed, I support approval of variance.

Please feel free to contact me with any questions.

Thank you

--Respectfully,
Lesle Cole
360 Gan Eden Drive
Lake Orion, MI 48362
352-901-0783
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

SUBJECT: Staff Report for AB-2021-21, Keith Aldridge, Yates Cider Mill

The applicant has requested to subdivide condominium Unit 1 located within the condominium known as “Canterbury Village” into two units. Unit 1 consists of the Yates Cider Mill building. The request has gone to the Planning Commission and a First Amendment to Master Deed Canterbury Village has been prepared.

The Planning Commission approved the request contingent upon the building known as Yates Cider Mill receiving the necessary variances for setbacks – as the building would now be considered separate from the Condominium known as Canterbury Village.

Although the language implies “separate” or “subdivide”, the building is not being altered in anyway and will remain in its current location.

It was determined that the rear of the building is the side that faces north. A building front is the side of the building that faces a road; it was determined that front to be the side that faces south (the rear would then be opposite of that).

Please let me know if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 2021

RE: AB-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Joslyn Ct.

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-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Jolsyn Ct., 09-21-251-004, I move that the petitioner’s request for:

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).

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-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Joslyn Ct., 09-21-251-004,
I move that the petitioner’s request for:

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).

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 - Commercial

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 $500.00 for a commercial 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: Keith Aldridge
Address: 525 Indianawood Rd City/State/Zip: Lake Orion, MI 48362
Phone: (248) 390-3974 Cell: (248) 390-3974 Fax:
Email: Ka@canterburyvillage.com

PROPERTY OWNER(S)

Name(s): Keith v. Angie Aldridge
Address: 525 Indianawood Rd City/State/Zip: Lake Orion, MI 48362
Phone: (248) 390-3974 Cell: (248) 390-3974 Fax:
Email: Ka@canterburyvillage.com

CONTACT PERSON FOR THIS REQUEST

Name: Keith Aldridge Phone: (248) 390-3974 Email: Ka@canterburyvillage.com

SUBJECT PROPERTY

Address: 235 Joslyn et, Lake Orion, MI 48360 Sidewell Number(s): 0-09-21-351-004
Total Acreage: 15.613 Length of Ownership by Current Property Owner: Years, 7 Months

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

Deviation requested
List additional ordinance requirements and deviations on a separate page

Case #: ________________
COMMERCIAL VARIANCE

1. Describe the nature of the request. **Existing building on the campus of Canterbury Village, needs setback variances for hot lines on North and East sides.**

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. **Building have been there 100 years they are not movable.**

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 requested because of the history of the property in our community.

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **The precedence has already been set in 2014, when we split the property with Woodside Bible Church.**

5. Describe how the alleged practical difficulty has not been self-created. **Building have been on the campus for 100 years.**

6. The topography of said land makes the setbacks impossible to meet because: **On the east side you can't move Woodside Bible church and to the North is the sidewalk for Canterbury Village.**

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. **Nothing we can do, we can't move the buildings.**
Case #:  

8. Have there been any previous appeals involving this property? If so, when?  I don’t believe so  

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:  

(must be original ink signature)  

Date: 4/8/2021  

Print Name: Keith Aldridge  

Property Owner:  

If applicable:  

I, the property owner, hereby give permission to  

Signature of Property Owner:  

(must be original ink signature)  

Date: 4/8/2021  

Print Name: Keith Aldridge, Angie Aldridge  

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:  

Page 3 of 3  

Version 5/10/18
L. Safety Paths. Construction of safety paths for pedestrian use and use by non-motorized vehicles shall be required in conjunction with the development of all parcels in this zoning district. The safety paths shall conform to the specifications outlined in Section 27.06 and Ordinance No. 97. (amended 01.03.87, 02.03.03)

M. Tree Preservation Regulations. The tree permit requirements apply to developments in this District, according to the terms of Section 27.12. (amended 08.03.00)

N. Wetland Setbacks. The wetland setback requirements apply to all developments in this District, according to the terms of Section 27.17. (added 09.17.07)

Section 21.04 – Area and Bulk Requirements, SP-1 (For the SP-1 District as a Whole) (amended 07.16.18)

Please see the Matrix Chart in Section 21.01 for variations to these requirements by use.

<table>
<thead>
<tr>
<th></th>
<th>SP-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>30 ft.</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>40 ft.</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>40 ft.</td>
</tr>
<tr>
<td>Minimum Lot Area</td>
<td>10 acres</td>
</tr>
<tr>
<td>Maximum Structure Area (Collectively)</td>
<td>200,000 sq. ft.</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>30%</td>
</tr>
<tr>
<td>Maximum Height of All Structures</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Minimum Clear Space Around Structures</td>
<td>30 ft.</td>
</tr>
</tbody>
</table>

Section 21.05 – Area and Bulk Requirements (For Each Separate Structure) (amended 07.16.18)

Please see the Matrix Chart in Section 21.01 for variations to these requirements by use.

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<td>20 ft.</td>
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<tr>
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<td>5,000 sq. ft.</td>
</tr>
<tr>
<td>Maximum Structure Area</td>
<td>10,000 sq. ft.</td>
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<tr>
<td>Maximum Height of All Structures</td>
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</table>
CHARTER TOWNSHIP OF ORION PLANNING COMMISSION
***** MINUTES *****
REGULAR MEETING, WEDNESDAY, APRIL 7, 2021

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, April 7, 2021, at 7:00pm at the Orion Township Community Center, 1335 Joslyn Rd., Lake Orion, Michigan 48360

*Please note this meeting was also available virtually via a “GoToMeeting” #599-669-285*

PLANNING COMMISSION MEMBERS PRESENT (Commissioner location):
Scott Reynolds, Chairman
Don Gross, Vice-Chairman
Joe St. Henry, Secretary

Don Walker, PC Rep to ZBA
Kim Urbanowski, BOT Rep to PC

PLANNING COMMISSION MEMBERS ABSENT:
Garrett Hoffman, Commissioner
Jessica Gingell, Commissioner

1. OPEN MEETING
Chairman Reynolds opened the meeting at 7:00 pm.

2. ROLL CALL
As noted

CONSULTANTS PRESENT:
Rodney Arroyo, (Township Planner) of Giffels Webster
Eric Fazzini, (Township Planner) of Giffels Webster
Eric Pietsch, (Township Planner) of Giffels Webster
Mark Landis (Township Engineer) of Orchard, Hiltz, and McCliment, Inc.
Tammy Girling, Township Planning & Zoning Director

OTHERS PRESENT:
Daniel Spatafora
Pam Omilian
Angie Aldridge
Dominic Goric
Brian Omilian
Daniel Rhoton
Tom Kalas

3. MINUTES
A. 03-17-21, Planning Commission Workshop Meeting Minutes
B. 03-17-21, Planning Commission Regular Meeting Minutes
Moved by Secretary St. Henry, seconded by Commissioner Walker to approve both sets of minutes, as submitted. Motion carried

4. AGENDA REVIEW AND APPROVAL
Moved by Vice-Chairman Gross, seconded by Secretary St. Henry, to approve the agenda as presented. Motion carried

5. BRIEF PUBLIC COMMENT – NON-AGENDA ITEMS ONLY
None

6. CONSENT AGENDA
None

7. NEW BUSINESS
A. PC-2021-38, Canterbury Village, Modify Existing Site Condominium, located at 2359 Joslyn Ct., (parcel 09-21-251-004).
Chairman Reynolds asked if the applicant was present?

Ms. Angie Aldridge, co-owner of Canterbury Village, 525 Indianwood Rd. presented.

Ms. Aldridge stated that they are selling Yates building to them and creating a new parcel off of Canterbury Village. They were there for two variances for the north and the east. The south setback is good at 92-ft. the west setback moved 40-ft. to be in compliance. She added that if they look north, they have two setbacks there, 23-ft. and 8-ft. It butts up to the sidewalk, they are not selling the sidewalk, which will remain Canterbury Village’s property. The sidewalk has always been on the lot line even when Stan Aldridge owned Canterbury Village and Yates was the Bullpen. When Stan bought the Bullpen, it became all of Canterbury Village. They are looking for the variance north it is supposed to be 30-ft. and they have two variances of 23-ft. and 8-ft. Chairman Reynolds stated that she was there tonight to subdivide the condominium unit, so they are just reviewing condo documents. He added that will be a future step that will be dependent upon their approval at this phase. Ms. Aldridge said she thought that this was for the approval of the two variances. Chairman Reynolds stated that this was to approve the division of land, and the next step is going to be a variance that they are seeking, and will be a condition of this motion. Chairman Reynolds said that the overview of splitting off the building was accurate. Ms. Aldridge apologized and said she thought she was there for a variance. Chairman Reynolds said that will be a different Board, it will be another process after this. It may be helpful to have the professional consultants walk them through, and then they will turn it back if there was anything else, she would like to add.

Planner Fazzini read through his review date stamped March 31, 2021.

Engineer Landis read through his review date stamped March 24, 2021.

Vice-Chairman Gross said that this appeared to be straight forward application. The site is currently developed, no additions or modifications are being proposed to the site. The lot split application has been reviewed by the Township Attorney and he was satisfied with the appropriate Master Deed and documents, and there are appropriate easements provided in the lot split for the subject parcels.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission approve KALGW LLC’s application to subdivide condominium Unit 1 located within the condominium known as “Canterbury Village” into two units, subject to the recording of the “First Amendment to Master Deed Canterbury Village” as reviewed by the Township Attorney.

Discussion on the motion:

Chairman Reynolds said that sometimes these are a little complicated but since it is zoned (SP-1) and this is a separate condominium area if this was ever to be sold off partially, in the future, he asked if that creates any issues with setbacks? He questioned if it was a separate lot or if it was a whole? Planner Fazzini said that unit 3 would need to meet setbacks, there are 4 units within the condo, 2 are general common element areas. The units with buildings and improvements on them will need to meet setbacks and the standard district requirements. Unit 3 appeared to be the only one that may have some questions, and they can work with the Planning & Zoning Director on that as far as what is nonconforming or what needs a variance.

Chairman Reynolds said his concern was that they are creating a nonconforming lot which they cannot do, so technically they have to deny with a motion to approve if they
receive approval from the ZBA. Planner Fazzini said that they have not reviewed the
plan on the screen that indicates the setbacks, so they have not verified if there are
standards that are met or not, that is something that still needs to be done.

Chairman Reynolds asked if it was the north and east setbacks? Ms. Aldridge replied
correct. Chairman Reynolds said that when there is a variance requested it is denied at
this level but approved if the variances are approved. Secretary St. Henry questioned if
they don’t have to come back? Chairman Reynolds replied correct. He added that if
they are fine with the lot split, he thought that they were creating a nonconforming lot.
Secretary St. Henry said so a conditional approval? Chairman Reynolds stated that
there are already conditions, but it needs to go to the ZBA, but it is not in the motion
currently.

Vice-Chairman Gross amended the motion, Commissioner Walker re-supported to include that
this was subject to granting the approval of any necessary setback waivers by the Zoning Board
of Appeals.

Roll call vote was as follows: Walker, yes; St. Henry, yes; Gross, yes; Urbanowski, yes
Reynolds, yes. Motion carried 5-0. (Hoffman & Gingell absent)

B. PC-2021-40, API Consulting Office Addition Site Plan, located at 339 W. Clarkston Rd.
(parcel 09-14-100-008).

Chairman asked to be recused because he was in direct relationship to the drawings prepared
by his office for API Consulting, and will come back for item 8A.

Moved by Trustee Urbanowski, seconded by Vice-Chairman Gross, to recuse Chairman
Reynolds from the PC-2021-40, API Consulting site plan approval due to conflict of interest.

Roll call vote was as follows: St. Henry, yes; Urbanowski, yes; Walker, yes; Gross, yes.
Motion carried 4-0 (Hoffman & Gingell absent, Reynolds recused)

Acting Chairman Gross asked if the applicant would like to make a presentation?

Mrs. Pam Omilian with API Consulting located at 339 W. Clarkston Rd. She was present with
her husband Brian Omilian, and are life-long Lake Orion residents and are both business
owners in Lake Orion. They were proposing an 860-ft. addition to their existing 550-sq. ft.
existing office building. It currently houses their office, but they are growing. Their building is
neighborhood on the east side by the Orion Area Eagles club, and on the west side is an
unoccupied building. They wanted to explain a few items that came up in the review and they
are requesting some waivers due to the existing building that is already on the property. The
first one was a Parking & Buffer setback waiver. The Parking & Buffer setback waiver is limited
by the existing building and the existing driveway at that location. They have thoroughly
researched it and it is still the best place for parking. The Trash Enclosure, they are also asking
for a waiver from a trash enclosure, since they only need one trash receptacle. They use a
residential bin they don’t see a significant change or any request for an addition. They are a
very small office and they are mostly paperless. The third thing was site lighting, there was a
note referring to the lighting plans due to the small nature of the project they just wanted to keep
the proposed lighting in line with what they already have on the existing portion of the building,
and they have their lighting ordinances noted on the plans. The last item they had was the
safety path. They understood the importance of safety paths but there is nothing on the south
side of Clarkston Rd. from M24 except in front of the Speedway to Joslyn Rd. There is one right
TO: The Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: May 4, 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.

May 24, 2021 (this meeting has 6 cases on it)
June 14, 2021
June 28, 2021
MEMORANDUM

TO: ZBA Members

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: April 21, 2021

SUBJECT: MAP Virtual Zoning Board of Appeals Workshop

Gentlemen, I am highly encouraging you to attend this virtual workshop. It will be held on Thursday, May 27th, from 6:00pm to 8:30pm. Attached is more information.

Please let me know as soon as possible if you would like to attend as there is a registration fee we need pay and I believe there is a workbook MAP provides as part of that fee.
MAP and Emmet County have teamed up to host a virtual Zoning Board of Appeals onsite workshop

$33 registration fee | Rate increases to $44 on May 20, 2021

This workshop is designed especially for Zoning Board of Appeals members. The workshop will:

- Clarify the expectations and limitations of your position.
- Help you recognize when there’s a conflict of interest.
- Equip you with the best planning and zoning practices to sharpen your decision-making skills.
- Boost your confidence as zoning board of appeals member during meetings.

MAP’s popular workshop, Zoning Board of Appeals, is an interactive, case study based workshop which goes into great depth on the issues of practical difficulty and unnecessary hardship. A summary of voting and membership requirements and other procedural requirements unique to ZBA operations are reviewed.

Why MAP’s Zoning Board of Appeals Workshop?

- All workshop instructors are certified by the American Institute of Certified Planners.
- Registration includes a copy of MAP’s Zoning Board of Appeals guidebook—mailed to your home — a 57-page resource filled with information to help you make better decisions.
- For more than 75 years, MAP’s reputation and credibility as a land use leader in Michigan have been widely recognized, assuring the highest quality educational experience.

Learn from MAP’s experienced and credentialed instructor, John Iacoangeli, FAICP

Download as iCal file

Michigan Association of Planning
1919 West Stadium Boulevard, Suite 4
Ann Arbor, MI 48103
info@planningmi.org
734.913.2000 (office)
734.913.2061 (fax)
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