1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 4-10-2023, ZBA Meeting Minutes
   B. 4-24-2023, ZBA Meeting Minutes
   C. 5-22-2023, ZBA Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2023-13, Mike & Andrea Carr, 2438 Knotty Willow Ln., 09-21-176-098
      The Applicant is seeking 1 variance from Zoning Ordinance #78
      Article XXVII, Section 27.17(B)
6. PUBLIC COMMENTS
7. COMMUNICATIONS
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
10. ADJOURNMENT

In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to request accommodations.
MEMORANDUM

TO: ZBA Members

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: May 26, 2023

SUBJECT: April 10, 2023 and April 24, 2023 ZBA Meeting Minutes

For the May 22, 2023 ZBA Meeting, Chairman Durham’s paper Agenda for that meeting referenced the wrong Minutes date – it referenced April 10, 2023 instead of April 24, 2023. (The BoardBook packet was correct and contained the minutes from the April 24, 2023 meeting.)

As such, when Trustee Flood approved the Minutes, he noted he was approving the Minutes for the April 10, 2023 ZBA meeting and made an amendment which was actually to the April 24, 2023 Meeting Minutes – follow me so far?

The Minutes for the April 10, 2023 ZBA meeting were actually approved at the April 24, 2023 meeting as presented and should remain as such.

To rectify this issue – Trustee Flood should withdraw his motion made at the May 22, 2023 ZBA meeting approving the April 10, 2023 Minutes as amended and Chairman Durham should withdraw his support, due to the motion referencing the incorrect meeting date of April 10, 2023.

Trustee Flood should now make a motion approving the April 24, 2023 minutes as amended, noting the revision to page 4 of the minutes changing “Mr.” Austin to “Ms.” Austin in the 3rd paragraph – as these Minutes were never officially approved. (The April 24, 2023 Minutes are attached to this Memo.)

The Minutes for the May 22, 2023 ZBA meeting should be acted on as normal.

I am taking full responsibility for the incorrect date on Chairman Durham’s Agenda and will do my best in the future to ensure this does not happen again.

Please let me know if you have any questions.
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 10, 2023, at 7:01 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

**ZBA MEMBERS PRESENT:**
- Dan Durham, Chairman
- Mike Flood, BOT Rep to ZBA
- Don Walker, PC Rep to ZBA
- Diane Dunaskiss, Board Member
- JoAnn VanTassel, Alternate Board Member

**CONSULTANT PRESENT:**
- David Goodloe, Building Official

**OTHERS PRESENT:**
- Jessica Austin
- Kinzie Austin
- Mario IZZI
- Shamik Tripami
- David Lagerquist
- Mo Zaitouna
- Phil McPeek
- Kiel Vanderhovel
- Dan Cieslak
- John Callahan
- Ron Haag
- Marti Fujitsu

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

2. **ROLL CALL**

3. **MINUTES**

A. **03-13-23, ZBA Regular Meeting Minutes**

Board Member Flood moved, seconded by Board Member Walker, to approve the 03-13-23 minutes as presented.

Motion Carried (5-0)

4. **AGENDA REVIEW AND APPROVAL.**

Board Member Dunaskiss moved, seconded by Board Member VanTassel, to approve the agenda as presented.

Motion Carried (5-0)

5. **ZBA BUSINESS**

A. **AB-2023-02, David Lagerquist, 2377 Cedar Key Drive, 09-21-127-012**

Chairman Durham read the petitioners request as follows:
The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-2 Article VI, Section 6.04
1. A 3.5-ft. side yard setback variance from the required 10-ft. for deck stairs to be 6.5-ft. from the property line to the south.
2. A 1% lot coverage variance from the allowed 25% for a total lot coverage of 26%.

Mr. David Lagerquist introduced himself and summarized the variance request. The practical difficulty is based on the design of the forty-year-old home, the placement of the original deck and the steep topography of the property down to the lake. They also have an existing lot coverage variance from the original design and construction of the home and added that the proposed improvements would increase the lot coverage percentage by 0.1%. They are trying to increase the safety and functionality of the existing deck with some new stairs. The Homeowners Association approves of the new design and there will be no further obstruction of views for the surrounding neighbors.

Trustee Flood commented on the excellent presentation of the petitioner. The Fire Marshall has no concerns with this application. He confirmed that there were also three letters in the Board packet. They received one from the neighbor on the north side and on the other side as well; both do not have any issues with the request. They also received a letter from a neighbor across the lake, Barbara Schalk, who does not approve of the request because they do not approve of all of the lakes in the County being overdeveloped. Trustee Flood commented that these negative comments seem to be mixed up because the petitioner is only replacing stairs for his existing deck.

Mr. Lagerquist confirmed that they are increasing the lot coverage with the new design by 0.1%.

Board Member Dunaskiss confirmed through her visit the steep incline of the property. She understands the need to conform to the topography and where the original deck was placed. She also understands the need to be safe and to construct a staircase that is safe.

Chairman Durham asked for public comment on this case.

No public comment was heard.

Trustee Flood moved, seconded by Board Member Dunaskiss, that in the Case of AB-2023-02, David Lagerquist, 2377 Cedar Key Drive, 09-21-127-012 date stamped received February 1, 2023 for 2 variances from Zoning Ordinance #78 – Zoned R-2 Article VI, Section 6.04 including a 3.5-ft. side yard setback variance from the required 10-ft. for deck stairs to be 6.5-ft. from the property line to the south and a 1% lot coverage variance from the allowed 25% for a total lot coverage of 26% be approved because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does demonstrate the following practical difficulty: due to the unique characteristic of this property along the edge of the lake and the condition of the original 40 year old stairs that are deteriorating and the petitioner is wanting to redo the stairs to put a 90 degree angle in order to put a landing so he doesn’t have a 45 degree straight drop to the patio.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: This is the lake property and the petitioner is curtailed by how far he can put the stairs on. The property is more steeply sloped than the properties to the north or south.

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: petitioner has a second story doorwall and must have access out of it. Many of the homes in the area have similar decks and stairs.
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 improvements in such zone or district in which the property is located based on the fact that it is consistent with what others in the neighborhood have done with their properties and this is property that has existed like this for 40 years.

5. Granting of this variance would not impair an adequate supply of light or air to adjacent properties. Both properties to the north and south of the petitioner have no issue with the variances. Also, the Homeowners Association has approved the request. The variances would not unusually increase congestion on public streets. There is also not going to be an increase of fire, the granting of the variance would increase safety by having the new stairs and the Fire Marshall has no concerns with the request. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Normally the Board does not grant a variance for a property that already has a variance on it. The existing variance was created by the builder when the home was built 28 years ago. This is not self-created.

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

B. AB-2023-04, Paul Smith, 4212 Mill Lake Road, 09-18-426-005

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SF Article V, Section 5.02 (C)(1)

1. A 63-ft. property line setback variance from the required 70-ft. for an existing private stable to be 7-ft. from the property line to the north.

Mr. John Little, attorney, introduced himself as representing Mr. Paul Smith and he explained the variance request. The impetus for the variance was a complaint received from a neighbor. This property is unique because the entire north side is adjacent to vacant unimproved County property. Without the variance, Mr. Smith will not be able to maintain horses on the property which is what they want to do with the property.

Chairman Durham commented on the need for practical difficulty in each Zoning Board of Appeals case. He asked Mr. Little what the practical difficulty was in this case because it can be moved.

Mr. Little stated that it cannot be moved because it has a cement foundation which was existing in 2021. This was not something that the petitioner built, it was on the property when he purchased it and was not self-created.

Board Member VanTassel asked about the property to the north, 09-17-351-015. She stated that this property is part of Oakland County Orion Oaks Park and gave a brief historical background summary of the property. It has never been developed and she doesn’t think it will ever be developed. She is familiar with Mill Lake Road and provided some historical comments regarding property surrounding this road. The homes immediately south of this subject property have a lot of items in the back yard. The property to the west has a barn and she is not sure if it meets setbacks. She cannot imagine anyone wanting to move horses closer to where they live then where they are right now.

Chairman Durham stated that the problem here is that the previous owner did not use it as a stable and now that it is being used as a stable, it falls under regulations for stables and this makes where it sits too close to the property line.

Building Official Goodloe stated that this structure was built between 2002 and 2005. Prior to this structure being there, it was a significant wetland area. It looks like in 2005, it was some type of stable structure. This
area is considered a wetland and was abated between 2002 and 2005 but he could not find documentation about the abatement.

Chairman Durham asked Building Official Goodloe that the reasoning for moving it away would be because of the wetland immediately behind it.

Building Official Goodloe replied yes. The location of animals might necessitate the testing of the waters to make sure that nothing was getting into the wetland resource.

Chairman Durham asked for public comment.

Kiel Vanderhovel stated that the previous owners of the subject property were using the building to store lawn equipment. Since the petitioner moved it, the family has been using the building as a stable and put up the fence going around. He expressed concerns regarding the wetlands since the petitioner is not taking care of the fecal matter and he is concerned that it is leeching into the wetlands. His other concern is that he has heard the animals were moved to Georgia.

Chairman Durham asked about the existence of the hay.

Mr. Vanderhovel stated that this hay was moved in by Mr. Smith.

Mr. Kinzie Austin stated that he has lived there since 2013 and the previous owner of the subject property used the structure as a garage. When the Smiths moved in, they modified the building adding stalls and a fence around it. He has had two complaints filed with the Township regarding the manure and the number of horses. He summarized those complaints. He asked the homeowner about the removal of the manure and was told that they never removed the manure and had no plans to so there is now eighteen months’ worth of manure sitting on the property. He is concerned about this so he had water samples pulled from Orion Oaks Park and from his own property so he could get an assessment. The lab results came back as the runoff going into Orion Oaks is 20 times the fecal coliforms for water that is in the surrounding area. This creates a tremendous risk for health and welfare in the area. It attracts flies and is an ordinance violation. The subject property is regularly flooded and is a wetland area. He doesn’t see anywhere on the property that you could build a stable area in which runoff would not be a concern. The raising of these types of animals needs to be done in an area where it is not detrimental to public health and safety. He is requesting that the Zoning Board of Appeals not approve this variance or any building of a stable on this property and that it address the existing complaint that they have regarding the manure.

Chairman Durham stated that the Board is looking tonight at allowing the stable structure to stay where it is. He asked when Mr. Austin collected the water samples.

Mr. Austin replied last week. The horses left in the last week but there are 18 months of manure still on the property.

Ms. Jessica Austin introduced herself and expressed her concerns about the variance request. The two properties that are referenced in the packet are very different from the subject property because they did not have standing water and do not have livestock on them. She offered pictures of the property showing encroachments and previous use of the property and she explained the pictures as she described them. She expressed concern about the manure going into the wetlands. The 70 foot setback is to provide a natural filter before the manure goes into runoff or wetlands and that is not being provided in this case. If we allow this variance, we have eliminated the natural filter. She expressed concern about the contamination of Orion Oaks. This property needs to be rectified because it is contamination.

Chairman Durham stated that there are different issues here. The Board tonight is only dealing with the setback variance request.
Ms. Austin stated that she understands that. But, the 70 foot setback has a purpose in farming and that is to filter the manure before it reaches water and if they eliminate that, they are continuing to allow this type of contamination.

Building Official Goodloe stated that this is built inside a wetland and he would like it permitted. One reason is that the fittings are in the wetland and he considers these to be compromised and it would not be a safe structure. Also, they have a setback for wetlands and looking at the property, this building is located right inside the wetlands. Before the house was built, a large portion of the property was wetland. At some point, they abated the wetland but he does not find anything at the local level.

Mr. Dan Cieslak explained where he lives in Mill Creek Village. He concurred with Mr. Goodloe’s concerns. The variance request should be denied because they failed to provide the burden of truth on it. The petitioner has not hit a substantial burden. He commented on the access to the property and the No Trespassing signs that are posted. The Board does have the ability to deny the variance and stop it from going any further.

Trustee Flood read the ordinance section regarding private stables. He commented on the 63 foot variance requested and the existence of the State land. Financial burden is not a practical difficulty. This property is 300 feet wide and there is plenty of room for 70 feet. The variance being requested is excessive and 90% of the ordinance allowed amount.

Board Member Walker stated that the Board should consider the runoff. He knows they only have one scientific side but they should consider it.

Chairman Durham asked Building Official Goodloe if he has enough to move forward on the complaint through the Township

Building Official Goodloe replied yes. He believes that it was built on wetlands.

Board Member Dunaskiss stated that the primary reason for granting a variance is a demonstrated practical difficulty that is related to the property itself. The structure was designed for storage of equipment and now that the owner wants to use it as a stable, it must follow the ordinance.

Board Member VanTassel asked for verification of the livestock being moved off the property. She asked if Mr. Smith planned to live there.

Mr. Little stated that Mr. Smith’s decision to live there is predicated on what they can use the property for. There was a complaint and they knew they couldn’t keep the animals on the subject property so they bought another property and moved the animals. They have not listed the subject property for sale.

Board Member Walker moved, seconded by Trustee Flood, that in the matter of ZBA Case #AB-2023-04, Paul Smith, 4212 Mill Lake Road, 09-18-426-005 for 1 variance from Zoning Ordinance #78 – Zoned SF Article V, Section 5.02 (C) for a 63-ft. property line setback variance from the required 70-ft. for an existing private stable to be 7-ft. from the property line to the north be denied for plans date stamped March 8, 2023 because the petitioner did not demonstrate that the following standards for variances have been met:

1. The petitioner does not show practical difficulty. Due to the uniqueness of this particular property not related to the general conditions in the area.

2. The granting of the variance or modification will be materially detrimental to the public welfare, materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact that by granting this variance and allowing it to be moved, this has been placed in the middle of wetlands and even though there may have been an abatement for the wetlands, the Township is not sure of that. From the testimony of the neighbors, who are not scientists, they have had some tests done and the Board’s concern is the welfare of the citizens of
Orion Township. It is possible that this would impair the public safety, comfort, morals or welfare of the inhabitants of the Township.

Roll Call Vote was as follows: VanTassel, yes; Walker, yes; Flood, yes; Dunaskiss, yes; Durham; yes. Motion Carried (to deny) 5-0.

C. AB-2023-05, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153
Section 7 – Permitted Ground and Wall Signs – Zoned IP

1. A variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (east elevation).

Mr. Moe Zaitouna introduced himself as representing the petitioner and summarized the variance request.

Chairman Durham asked if this new sign would replace the current banner sign.

Mr. Zaitouna replied yes.

Board Member VanTassel commented on the placement of the sign in comparison to the road names indicating that the road names were incorrect on application.

Trustee Flood asked if the second sign would be the “#2” indicated on the overhead.

Mr. Zaitouna replied yes.

Trustee Flood commented that it would be on the south side of the building facing Dutton Road. He asked Building Official Goodloe if it were going to have to be published again since the advertisement said east and it should have been south.

Building Official Goodloe replied no.

Board Members discussed where the current signs are located and where the proposed sign is intended to go.

Mr. Zaitouna answered that he is positive that the first sign is on the west side, labeled #1 on the aerial. The second sign will go where it is labeled #2 on the aerial, the south side.

Chairman Durham asked for public comment.

No public comment was heard.

Board Member VanTassel asked if there were other buildings in this area that have two exterior signs on their building. She asked the Planning Department and did not receive a response.

Mr. Zaitouna stated that they communicated with the two businesses next door and since they are not retail, they do not have the need for two signs.

Board Member VanTassel commented that it is up to the petitioner to provide this information.

Trustee Flood stated that this business is on a corner lot.
Chairman Durham asked if the business planned on keeping the exterior lights.

Mr. Zaitouna answered that they removed one section.

Building Official Goodloe commented that since the side of the building was incorrect, they would have to re-advertise. He suggested that the petitioner postpone for a date certain to May 22, 2023.

Chairman Durham asked if the petitioner could keep the existing banner sign.

Building Official Goodloe replied no. There is no need to punish a new business in the area. They don’t want it up for an extended period of time. He suggested that the petitioner contact Lynn Harrison at the Township and determine if any further documents are needed.

Board Member Dunaskiss moved, seconded by Board Member VanTassel, that in the matter of ZBA Case #2023-005, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003, that the petitioner’s request for one variance from Sign Ordinance #153, Section 7 – Permitted Ground and Wall Signs – Zoned IP for a variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (east elevation) be postponed for the plans date stamped March 9, 2023 because of an error in the directionality of the proposed sign and this matter be taken up at the May 22, 2023 ZBA meeting.

Roll Call Vote was as follows: VanTassel, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham; yes. Motion Carried (to postpone) 5-0.

D. AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned SF

Article XXVII, Section 27.02 (A)(8)

1. A 2,185.16-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

2. A 1,685.16-sq. ft. variance above the allowed Total Maximum Floor Area of All Accessory Buildings of 1,500-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

Ms. Wioletta Bilan introduced herself and summarized the variance request.

Chairman Durham asked about the comment regarding bringing in more buildings and losing storage space. If the over building had been caught at the permit stage, it probably would not have gotten to this stage.

Ms. Bilan explained that she was told with the first structure that they did not need to have a permit because it is under 200 square feet and the structure was 196 square feet. They did not ask for a permit for the existing gazebo. Her husband called the Township but she doesn’t know what his understanding was. For the carport, they understood that the Amish would pull the permit. When they found out that a permit was not pulled, they were in the middle of it and they just went with it.

Chairman Durham stated that the homeowner is responsible if the contractor does not pull the permit.
Ms. Bilan replied she understood and that is the reason she is here because the Township wanted her to permit the carport.

Chairman Durham stated that Ms. Bilan spoke about how the neighbors felt about her property. He stated that when he saw the property approaching from the west, he first thought about what had happened here. There are vehicles all over the property and he was shocked with the overall view of the property. He was also shocked by the total overall number of variances that she is requesting because he has never seen those numbers.

Ms. Bilan stated that she provided a table in the application.

Board Members confirmed that they received the table with the amounts of square footage in their packets.

Board Member VanTassel explained the jurisdiction of the Road Commission and the obtaining of the easement that exists on Indianwood Road. She provided history and background of the roads surrounding the subject property.

Board Member Dunaskiss asked if the barn and shed that are on the property are going to stand time or are they deteriorating because of moisture.

Ms. Bilan stated that when they first moved in, they were in terrible shape. They put a roof on the barn and they painted it. They sealed the holes and since it has been 20 years, it is time to do something. There is now water coming north towards them and will find its way to the barn. They are only keeping it because it has history. If the Township wants them to remove it, they will, but it also provides a buffer between them and the new houses. No one knows about the shed and if the Township wants them to remove it, they will.

Board Member Walker asked how many cars are housed on the subject property.

Ms. Bilan replied that her husband was a mechanic but they do not have a place to hide them. She has a car and her husband has a car and they also have a pickup truck, car, and a car for towing. She believes that there have been times when it did not look very nice. They would like to build a three car garage to hide the vehicles. They also have a backhoe. They now have four cars. There is one in the carport. They have two carports with a little bit of storage in between. They have wood and equipment stored in the other carport.

Board Member Walker asked if they ran a business out of this residence.

Ms. Bilan replied no.

Chairman Durham asked if there was a Township ordinance requiring all vehicles to be plated.

Building Official Goodloe replied yes.

Ms. Bilan commented that all the vehicles are plated. The west side is the worst looking section but she and her husband try really hard by putting up a wooden fence. Her husband used to have a trucking business but he doesn’t run this business anymore. On the south side, the Township installed a buffer for privacy because the petitioner complained about the subdivision being built there. The neighbor that moved in removed the fence and this allows the subdivision kids to play in their backyard.

Chairman Durham commented on the role of the Board regarding this case. He stated that what the surrounding people think, they are not dealing with it here. He cannot support the variances requested. He added that the Board cannot make decisions about removing the barn, etc. during the meeting tonight. This should be determined by the petitioner as to what they can offer to accomplish the least variance possible.
Board Member Walker suggested that if they took down the barn and the carport, they would not even be here. The Board is here to decide on the variances requested. He explained the role of the Zoning Board of Appeals in granting variances.

Chairman Durham asked for public comment.

Mr. Doug Broque commented that there is no structured way to park the cars on the subject lot. He has no objections to the cars on the property. He stated that the petitioner has done an excellent job of maintaining the property. He has no objection to the property or their buildings and he pointed out that it is a unique property. There is some drainage from surrounding properties causing damage to the petitioner’s property.

The resident who lives across the street stated that she has no objection to the property and approached the Board with pictures of the surrounding properties which she explained. She explained how the petitioner has used the barn in the past and they cannot use it now because of the water drainage issues they have on the property.

Chris Broque commented that if the subject property is viewed right now, this is a really bad time. The cedar fence on the subject property was knocked down by a snowplow. She commented on the drainage issues that they have on the subject property caused by the new subdivision in the area. The petitioner is a great neighbor and she has no problem with the variance requests.

Board Member VanTassel asked whose children play by the gazebo.

Ms. Bilan replied the neighborhood children.

Board Member VanTassel asked about the new development.

Ms. Bilan replied that it was the old Indianwood golf course. She commented on the increase of square footage for storage. Ms. Bilan stated that she would like the Board to grant the square footage of 2,360 square feet which was the square footage of accessory when they purchased the property.

Trustee Flood stated that all Suburban Farms (SF) zoned property is in the same category and have to abide by the same ordinance. All the Board is using to evaluate the request is the numbers provided by the Planning and Zoning Department and in the notice. He suggested that the petitioner go back to the Planning and Zoning Department and make adjustments that they can make to the plan to reduce the variance request. He commented that everyone must abide by the rules. He agreed with the other Board Members as to the large variances requested. He is hoping the petitioner can reduce the variance request and he would be happy to look at it again.

Chairman Durham concurred. The petitioner can postpone and come back with a reduced request that would be better received.

Board Member Dunaskiss stated that they are asking for large variances and she would have difficulty granting variances for buildings that are not usable. She loves historical buildings but when they deteriorate, they are no longer usable.

Board Member VanTassel stated that she has always understood that when they talk about lot coverage, they are only talking about the ground floor. She sees that this request includes a loft area too. She would like to get an attorney’s opinion on this.

Trustee Flood stated that the Planning and Zoning Department has that on their chart.

Board Member VanTassel stated that she asked to have a drawing from the Assessing Department too. She suggested that they postpone to get consistent numbers from the Assessing Department and for the petitioner to consider the square footage amounts given.
Building Official Goodloe stated that when they talk about lot coverage, they are talking about the ground floor of the structure. When they talk about the [maximum floor area] square footage, that does include loft areas or second floors. There is no lot coverage request in this variance. They usually go by what the Assessing Department has, but when the petitioner has larger numbers, they use the numbers from the petitioner.

Chairman Durham stated that it appears the petitioner is going to make substantial changes to reduce the variances requested.

Ms. Bilan requested a postponement.

Trustee Flood moved, seconded by Chairman Durham, that in the matter of ZBA Case AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002, application date stamped March 10, 2023, at the petitioner's request to be postponed until May 22, 2023 so the petitioner can confer with the Township's Planning and Zoning Department to make any further adjustments to the application.

Roll call vote was as follows: Dunaskiss, yes; VanTassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion Carried (to postpone) 5-0.

E. AB-2023-07, Stadium Ridge Apartments, 101 Stadium Drive, 09-14-400-025

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned RM-1

Article VII, Section 7.04 (E)(1)(a)

1. A 12.83-ft. front yard setback variance from the required 100-ft. for Building 13 to be 87.17-ft. from Stadium Drive.

2. A 12.83-ft. front yard setback variance from the required 100-ft. for Building 14 to be 87.17-ft. from Stadium Drive.

Mr. Mario Izzi introduced himself as representing the petitioner and summarized the variance requests. They are proposing rental units on the subject property. Because of the unique shape of the property, they are unable to build the buildings without variances. They do have a recommendation from the Planning Commission for site plan approval and they are trying to move forward with a development that will be successful. Their hardships are the size and the shape of the property. In order to keep the product continuous throughout the project, they would like to build the same buildings throughout the site.

Board Member Walker summarized the Planning Commission's conditional approval of the site plan.

Mr. Izzi stated that they added setback distance to the building off of Lapeer Road. They are asking for the relief off of Stadium Drive. They also added a berm for landscaping and considerable landscaping on Stadium Drive and Lapeer Road to help soften it.

Chairman Durham asked if these were apartment residential type rentals.

Mr. Izzi replied yes.

Chairman Durham asked who would own the units.

Mr. Izzi replied that they would own them and they would self-manage the units.
Board Member VanTassel stated that she asked for an elevation from both Stadium Drive and also from the larger parcel. She got the front elevation and side elevation. She wanted to see what is being built on the large parcel and does it duplicate what is being shown on Stadium Drive.

Mr. Izzi replied that he would be happy to supply the elevations.

Board Member VanTassel asked about the setbacks for the buildings on Beacon Way. The petitioner has a stronger case if the units off of Beacon Way are less than 100 feet off of Stadium Drive.

Mr. Izzi stated that they appear to be less than 100 feet but he would like to confirm that with the plan.

Trustee Flood stated that earlier they had an petitioner that wanted 90% lot variance. This petitioner is asking for 12% and he does not have a problem with the request.

Mr. Izzi reiterated the need for the variances and this was the simplest way to get to an approved plan.

Chairman Durham stated that it is obvious that the petitioner has tried to minimize the request.

Building Official Goodloe asked if Board Member VanTassel was looking for the rear elevation. He provided the drawings to the Board Members.

Board Members were shown the elevations for the proposed development and reviewed them.

Chairman Durham asked for public comment.

No public comment was heard.

Mr. Izzi provided photos for the Board Members review.

Board Member VanTassel moved, seconded by Board Member Walker, that in the matter of ZBA Case AB-2023-07, Stadium Ridge Apartments, 101 Stadium Drive, 09-14-400-025 2 variances from Zoning Ordinance #78 – Zoned RM-1, Article VII, Section 7.04 (E)(1)(a) including a 12.83-ft. front yard setback variance from the required 100-ft. for Building 13 to be 87.17-ft. from Stadium Drive and a 12.83-ft. front yard setback variance from the required 100-ft. for Building 14 to be 87.17-ft. from Stadium Drive be approved because the petitioner did demonstrate the follow standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does demonstrate the following practical difficulty due to unique characteristics of the property and not related to general conditions: the property is somewhat shallow and for the project to be built using the basic design of the project, it is necessary for variances from the 100 foot required setback to be made so that the product remains harmonious and contemporary with what is being built on the larger parcel adjacent to the subject parcel.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that does not apply generally to other properties in this same district or zoning: the fact that the parcel in question is a rather shallow parcel in comparison to others in the general neighborhood.

3. The variances are necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: the other parcels in this facility on either side north or south of Stadium Drive have a greater depth and have more room to provide for setbacks, the shallowness of this lot, and the product built will require the setbacks for the enjoyment of substantial property rights.

4. Granting of the variances or modification will not be materially detrimental to the public welfare or materially injurious to the property or to the improvements in such zone or district in which the
property is located based on the fact that the buildings are limited in size and the amount of traffic will probably be less than what is enjoyed by the occupants of the buildings along Beacon Way to the south or those whether employed there or dropping students off at Stadium Drive have much more traffic.

5. The granting of these variances would not impair an adequate supply of light or air to adjacent properties due to the fact that the property sits below the property to the north which is the King of Kings Lutheran Church and also the buildings are set a further distance back from Lapeer Road/M-24. The variances would not unusually increase congestion on public streets due to the limited size of the parcel and the buildings to be built. There is also not going to be an increase of fire or endanger public safety based on the comments of the Fire Marshall of the Orion Township Fire Department. It is not going to reasonably diminish or impair established property values within the surrounding area due to the limited size of these buildings and it is something that fits into the character of the neighborhood and this property as it is zoned.

Board Member Van Tassel amended the motion, re-supported by Board Member Walker to add the approval is conditioned upon the Board of Trustee reverting the property back to Multiple Family-RM1.

Roll call vote was as follows: Flood, yes; Walker, yes; VanTassel, yes; Dunaskiss, yes; Durham, yes. Motion Carried (to approve) 5-0.

6. PUBLIC COMMENTS - None

7. COMMUNICATIONS

Trustee Flood moved, seconded by Chairman Durham to cancel the May 8, 2023 Zoning Board of Appeals meeting due to lack of agenda items.

Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 5-0.

8. COMMITTEE REPORTS - None

9. MEMBER COMMENTS

Board Member Walker commented on Library meetings and events.

10. ADJOURNMENT

Trustee Flood moved, seconded by Chairman Durham, to adjourn the meeting at 10:04 pm.

Motion Carried (to approve) 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, April 24, 2023 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 24, 2023, at 7:01 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA
JoAnn VanTassel, Alternate Board member

ZBA MEMBERS ABSENT:
Tony Cook, Vice-Chairman
Diane Dunaskiss, Board member

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Sandra Young
Barry Young
Jennifer Austin

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

2. ROLL CALL

3. MINUTES
A. 04-10-23, ZBA Regular Meeting Minutes

Board member VanTassel moved, seconded by Trustee Flood, to approve the 04-10-23 minutes as amended, page 11, changing “property” to “project”.

Vote was as follows: Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 4-0.

4. AGENDA REVIEW AND APPROVAL.

Trustee Flood moved, seconded by Board member VanTassel, to approve the agenda as presented.

Vote was as follows: Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 4-0.

5. ZBA BUSINESS
A. AB-2023-08, Barry Young, 1301 Beach Dr., 09-16-229-039

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-2 Article VI, Section 6.04
1. A 4-ft. side yard setback variance from the required 6-ft. for a shed to be 2-ft. from the property line to the west

Article XXVII, Section 27.02 (A)(8)


Mr. Barry Young introduced himself and summarized the variance request. He stated that the shed will be located back far enough from the lake so that it does not impede the neighbor’s view but also so he can use it to store lake items and patio items. He explained the need for storage on his property.

Chairman Durham commented that there is not a lot of room for storage in 112 square feet.

Mr. Young explained the lake items that he needs to store.

Trustee Flood complimented Mr. Young’s neighbor on his arborvitae that are present on the property.

Mr. Young stated that the proposed shed will probably be 2.5 feet from the neighbor’s fence and he explained.

Trustee Flood commented that the practical difficulty is the septic field and the fact that the petitioner has a nonconforming lake lot.

Mr. Young added that he would like to stay off of the raised septic field with the proposed shed.

Trustee Flood reiterated the practical difficulty being the nonconforming lot and presence of the septic field. He stated that he was surprised that the property was not serviced by sewer.

Board member VanTassel provided a brief history of the presence of sewer in the Township.

Chairman Durham read a letter into the record from seven neighbors who expressed support of the variance request.

Mr. Young stated that he visited the neighbors and explained the proposed project.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood stated that the Fire Marshal had no concerns with the variance request.

Board member Walker thanked the petitioners for bringing a case before the Board that should be presented and he explained.
Trustee Flood moved, and Board member Walker supported, in Case AB-2023-08, Barry Young, 1301 Beach Dr., 09-16-229-039 that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned R-2, Article VI, Section 6.04 including a 4-ft. side yard setback variance from the required 6-ft. for a shed to be 2-ft. from the property line to the west and Article XXVII, Section 27.02 (A)(8) for a 112-sq. ft. variance above the allowed 750-sq. ft. Maximum floor Area of Detached Accessory Buildings to construct a 112-sq. ft. shed.2 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2) including a 10-ft. side yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the side property line to the south and a 10-ft. rear yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the rear property line to the west be approved because the petitioner did demonstrate the follow standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty: due to the uniqueness of this nonconforming lot, the septic system and septic field are in the backyard.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: as stated, this is a 50 foot lot on the lake and the presence of the septic and field determine the proposed location.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: the petitioner has demonstrated that he needs space to clear items for his grandchildren.

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 improvements in such zone or district in which the property is located based on the fact that there are letters of approval from surrounding neighbors that have no problems with the granting of this variance and it will not affect their property values.

5. The granting this variance would not impair an adequate supply of light or air to the adjacent property, in fact, the adjacent property has beautiful vegetation along the side where the shed will be installed. The variance will not unusually increase congestion on the public streets. There is also not going to be an increase of fire, based on the report from the Fire Marshall in which he says he has no issues with this variance. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Charter Township of Orion.

This property does not vary much from other properties in this immediate area and in looking at the aerial photos; most of the neighbors have sheds for storage of lake toys. The request is in line with what has been granted to other neighbors. By having a shed to store items, this will not increase traffic beyond the traffic that is already there.

Roll call vote was as follows: VanTassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 4-0.

6. PUBLIC COMMENTS

Ms. Jessica Austin introduced herself and commented on a case that appeared at the last meeting regarding a garage that was moving into a private stable. She received some information from the Health Department and she shared that information with the Board regarding the entire Mill Creek area surrounding that subject lot. She commented on the septic property for the subject lot to determine if the tear up of the front yard was a concern. She conveyed the information from Oakland County Health Division regarding the septic request for the subject property. She stated that she needs help because her property is 25 feet from a property that is in the wetlands and was denied a septic system but there are people living there. She stated that the current owners are getting ready to sell.
Chairman Durham commented that he understands why she is here but this Board has a very limited scope and he explained the jurisdiction of the Board.

Ms. Jessica Austin explained her experience with Orion Township and submitting complaints and why she needs help at this point.

Building Official Goodloe stated that there is a current violation to remove the building and the Code Enforcement department is aware of the manure issue on the property. He explained the process that the Township follows for code enforcement. He encouraged Mr. Austin to contact the Department of Agriculture.

Ms. Austin stated that the Department of Agriculture encourages farming but this subject property is not conducive for farming and agriculture. She expressed her frustration about following the complaint system and nothing is done. She reiterated the fact that the subject property does not have a functional septic system according to Oakland County.

Trustee Flood stated that he appreciates Ms. Austin’s due diligence but this Board has no authority. He reiterated the variance being considered and explained that many times it turns into a civil matter in which the Township has no authority.

Building Official Goodloe stated that the ball is in motion on this property but it takes time because they have to go through the process. He explained the Township’s process.

Trustee Flood reiterated the Zoning Board of Appeals role.

Building Official Goodloe stated that he will look into the septic matter.

Board member VanTassel asked what would Ms. Austin like the Township to do.

Ms. Austin explained how she would like the Township to help her.

Board member VanTassel encouraged Ms. Austin to go to the Building Department and Planning Department and ask to be notified if anything comes up with this subject property and she explained.

Ms. Austin continued expressing her concerns with the property.

Chairman Durham confirmed that Building Official Goodloe has expressed that the subject property is currently under ordinance enforcement work and he explained the process that is involved.

7. COMMUNICATIONS

Chairman Durham commented on the memo from Lynn Harrison.

Board member Walker updated the Board members on the upcoming Library Book sale. He asked about the payment required to participate in No Haz program.

Trustee Flood stated that they did pay back in 2012 and it was a $10 co-pay and he explained the increase cost of No Haz participation. He will provide a presentation at an upcoming Township Board meeting and he will let the Zoning Board of Appeals members know when it is scheduled.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

10. ADJOURNMENT
Moved by Trustee Flood, seconded by Board member VanTassel, to adjourn the meeting at 7:47 pm.

Vote was as follows: Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 4-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, May 22, 2023, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

**ZBA MEMBERS PRESENT:**
- Dan Durham, Chairman
- Tony Cook, Vice-Chairman
- Mike Flood, BOT Rep to ZBA
- Don Walker, PC Rep to ZBA
- Diane Dunaskiss, Board member
- JoAnn VanTassel, Alternate Board member

**ZBA MEMBERS ABSENT:**
None

**CONSULTANT PRESENT:**
David Goodloe, Building Official

**OTHERS PRESENT:**
- Tim Damien
- Jeff Guy
- Seit Selimi
- Kerry Harper
- Rushit Bhima
- Jacob Petiysier
- Chris Morgan
- Mo Zaitouna
- Erik Heiderer
- Wioletta Bilan
- Dan Mahoney
- Maureen Hudson

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

2. **ROLL CALL**

3. **MINUTES**

A. **04-10-23, ZBA Regular Meeting Minutes**

Trustee Flood moved, seconded by Chairman Durham, to approve the 04-10-23 minutes as amended, changing page 6, paragraph 3, change “Ms” to “Mr”.

Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; Cook, yes. Motion passes 5-0.

4. **AGENDA REVIEW AND APPROVAL**.

Trustee Flood moved, seconded by Board member Dunaskiss, to approve the agenda as presented.

Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; Cook, yes. Motion passes 5-0.

5. **ZBA BUSINESS**
A. AB-2023-05, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003 (Postponed from 4-10-2023 meeting – re-advertised)

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153
Section 7 – Permitted Ground and Wall Signs – Zoned IP
1. A variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (south elevation).

Mr. Moe Zaitouna introduced himself to the Board and summarized the variance request.

Board member VanTassel stated that the only new information was an aerial with the south face of the building circled in red. There was no additional justification given. The original justification was that they are on a corner lot and want to have the sign visible from two directions. She expected, after the last meeting, that the applicant would have taken a better look at what was requested and returned with additional information.

Mr. Zaitouna stated that he did not realize there was more information needed. His understanding was the only thing that was different is that they had previous put “east” and it should have been “south” side of the building.

Board member Dunaskiss asked about the sign on the west side of the building and if it was visible from any other direction.

Mr. Zaitouna replied that the existing sign is on the west side of the building and is not visible from any other direction, only going east on Dutton.

Trustee Flood commented on his building visit and how it was very hard to tell what business was in the building.

Chairman Durham asked where most of the traffic was traveling that would see the building.

Mr. Zaitouna replied both directions on Dutton Road.

Chairman Durham agreed with Trustee Flood that the existing sign cannot be seen from M-24.

Trustee Flood stated that if the sign request was approved, he suggested that the temporary banners be removed.

Mr. Zaitouna agreed.

Mr. Goodloe, Building Official, confirmed that the temporary banners are against the ordinance.

Chairman Durham asked for public comment.

An unidentified speaker stated that he works in the area and this building has plenty of signage. People looking for this business will find it easily. This person put a business in this area knowing what the sign restrictions are and now wants to change it. The Sign Ordinance exists for a reason. He is opposed to the variance request and explained.

Chairman Durham confirmed that the temporary banners would come down if the sign request is approved.

The unidentified speaker stated that all sides of the building are covered and added that he was also opposed to the lighting at this business location. There is no public benefit for issuing the variance.
Board member Dunaskiss asked if the lighting was going to be changed.

Mr. Zaitouna added that once the second sign was put up, the business owner would remove the Christmas lights.

Mr. Goodloe, Building Official, confirmed that no information had been filed by the applicant regarding the lighting nor the temporary banners.

Trustee Flood stated that this Board doesn’t consider public benefit; they are considering practical difficulties only. There have been numerous commercial requests for more than one wall sign from this Board in the past.

Board member VanTassel moved, supported by Board Member Walker, that in the matter of ZBA case AB-2023-05, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003 that the petitioner’s request for 1 variance from Sign Ordinance #153 Section 7 – Permitted Ground and Wall Signs – Zoned IP that a variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (south elevation) be denied for plans date stamped, March 9, 2023, and supplemental information date stamped April 11, 2023, because the petitioner did not demonstrate that the following standards for variance have been met in the case that set forth facts which show that in this case:

1. The petitioner does not show practical difficulty due to the fact that the building on which the sign is proposed to be located is not unique to the property and is not related to conditions in the area of the property. There are numerous other buildings at this vicinity that sit on a corner and do not have two signs.

2. The following are not exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other buildings of a commercial nature in this same district or zone: this area for the most part abides by the ordinance.

3. The variance is not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: based on information that has been received from the Township there are alternatives available to this petitioner that would allow for the property to be properly identified for traffic that is westbound on Dutton Road without the need for variances of any type and would be more conducive to the area and would be less of a hindrance to traffic.

4. The granting of the variance or modification will be materially detrimental to the public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact that if you look at the original aerial photos that were submitted with the application or with the subsequent you will note that as Dutton Road proceeds west to M-24, it jogs at this building slightly to the south which takes the driver’s eyes away from the building so a sign on the south has the potential to create a traffic accident. Any wall sign on the south façade of the existing building meets the conditions and further, there are alternatives available to provide identification to this building allowable in the existing sign ordinance that would not create a traffic hazard or any other impediment to traffic and would provide the identification of the business to anyone driving west on Dutton Road.

Roll call vote was as follows: VanTassel, yes; Walker, yes; Flood, no; Durham, no; Dunaskiss, no. Motion fails.
Trustee Flood moved, supported by Chairman Durham, that in the matter of ZBA Case AB-2023-05, readvertisement of Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003 in request for 1 variance from Sign Ordinance #153 Section 7 – Permitted Ground and Wall Signs – Zoned IP for a variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (south elevation) be granted for plan date stamped April 11, 2023 because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulties: due to the unique characteristics of the property, this sits inside an industrial park at the extreme southeast corner at the corner of Bald Mountain and Dutton Road.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: this is in the southeast corner of the industrial park. There is no signage on the front of the building facing Dutton Road which is a 50 miles per hour road. If you are traveling west, you are coming down a hill and looking from M-24, it is approximately ½ to ¾’s of a mile away.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: there are several buildings in the vicinity that have more than one sign on their building.

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 improvements in such zone or district in which the property is located. This is a commercial zone, not near to residential property and across the street is commercial property of Auburn Hills.

5. The granting of this variance would not impair an adequate supply of light or air to the adjacent properties, due to being in the industrial park. It would not unusually increase congestion on the public streets and proper signage on any building allows it to eliminate confusion in the public streets. There is also not going to be an increase of fire, or endanger of the public safety, and the Fire Marshall has provided a statement in which he has no concerns regarding this variance. The granting of this variance will not reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Petitioner agrees that when the second sign is constructed, all temporary banners on the site and the red and green lights will be removed.

Board member VanTassel explained why the petitioner should install a monument sign instead of obtaining a variance.

Roll call vote was as follows: Dunaskiss, yes; VanTassel, no; Walker, no; Flood, yes; Durham, yes. Motion passes 3-2.

B. AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned SF (Postponed from 4-10-2023 meeting)

Article XXVII, Section 27.02 (A)(8)

1. A 2,185.16-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.
2. A 1,685.16-sq. ft. variance above the allowed Total Maximum Floor Area of All Accessory Buildings of 1,500-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

Ms. Wioletta Bilan introduced herself to the Board.

Chairman Durham asked what is different about this request as compared to the last appearance before the Board.

Ms. Bilan explained how she reduced the variance.

Chairman Durham stated that the application said they would remove a barn and a carport but the request is for a barn and a carport, so is asking for an explanation.

Ms. Bilan confirmed that all have been removed on the list; they removed 2,360 square feet of accessory buildings. They removed all sheds, the carport and are in the process of removing the barn.

Trustee Flood stated that the way he understood it is that they are keeping the gazebo, the log cabin and are removing the chicken coop, shed and barn.

Chairman Durham stated that it appears that what they are being asked to vote on is the big number for the buildings currently on the site.

Board member Walker stated that it looks like the same request that was presented the first time. He thought the reason for the postponement is to give the petitioner time to regroup and modify the request but it appears to be the same as it was.

Board member VanTassel commented on the buildings that appear to be kept and demolished and commented on the amount of square footage required.

Building Official Goodloe stated that the petitioner has to determine if she wants to move forward with the variance requested or not.

Ms. Bilan commented that she sent an email to Lynn Harrison letting her know that they took down the sheds and are in the process of taking down the barn and she read the email. She is not asking for more square footage, she is asking for status quo. There are no sheds or carport and the historic barn is halfway demolished. The only thing left is the log cabin and the gazebo. Now, they need a pole barn to store items on their property.

Chairman Durham stated that the same variance that she requested before has been presented to the Board again.

Ms. Bilan replied she is sorry to hear that.

Chairman Durham stated that he does not like to make decisions here; he likes solid numbers. He doesn’t know that the Board can do anything that she wants based on the information presented.

Board member Dunaskiss stated that the petitioner has taken down the barn, carport and shed structures and the only structures left are the gazebo and the cabin and those keep the petitioner within what is allowed in external buildings. However, the petitioner wants to add a building and asked her what she wants to add.

Ms. Bilan replied they want to maintain the 2,360 square feet that they had for the past two decades.

Board member Dunaskiss stated that Ms. Bilan needs to bring a new application because the request is now different. This should include the dimensions of the building that she wants to add to the property.
Ms. Bilan replied she does not want to go through the process because she doesn’t know what she is working with. She wants the original 2,360 square feet to be approved that they have had.

Chairman Durham stated that the information given to the Board is wrong and they cannot vote on it.

Ms. Bilan replied she wants 2,360 square feet.

Chairman Durham stated that the petitioner wants to construct a new building.

Building Official Goodloe commented on the history of the accessory buildings on the property. The amount of 2,360 square feet is higher than was advertised so it would have to be readvertised. He saw today that they are disassembling the barn. A good plan is needed in order to achieve the 2,360 square feet. This variance is for 2,185 square feet above the allowed amount for detached and then 1,685 square feet above for all accessory buildings.

Chairman Durham asked for public comment.

Chris Broquet, neighbor, stated that everything has been removed except for the cabin and the gazebo and the petitioner wants to get a garage. The petitioner is trying to see what amount of square footage is acceptable so she knows how big the garage can be.

Building Official Goodloe summarized the square footage requested based on this information.

Ms. Broquet reiterated that the petitioner just wants a garage. If the Board can tell the petitioner how to proceed next.

No further comment was heard.

Trustee Flood stated that the Board does not make recommendations to the petitioner as to what they can build. Is there an approval or denial of the original variances or because they have gone below the required variance, is there a withdrawal?

Board member VanTassel asked about a document included in the Board packet. She stated it would be helpful if the person who prepared the document had put their name on it. They have an open application to grant variances which was held over for the applicant to decide what they wanted to keep and what they were willing to demolish. The petitioner wants to amend their application for variance for two new structures. She outlined the options for the Board for action tonight. It would have been helpful if the ZBA got a copy of what was advertised in the packet.

Trustee Flood commented that there was no changes so it wasn’t re-advertised.

Building Official Goodloe stated that the Board has lessened variances in the past. But, the petitioner has not provided any details regarding what she wants to keep and the amount that is coming off of the allowable to know exactly how much she will have left to use in a garage. The petitioner should go back to zoning and determine exactly what she wants.

Chairman Durham asked if the new garage would necessitate the petitioner coming back before the Board.

Building Official Goodloe answered possibly if it was over 300 square feet.

Board member Dunaskiss stated that any variance granted stays with the property. She asked if the buildings are torn down that required the variances, does the variance go away because it is tied to the buildings.

Trustee Flood explained that it does go with the land.
Ms. Bilan commented on the Board’s possible action.

Chairman Durham suggested that the petitioner return to the Zoning Department and do the figuring of amounts across the desk with the staff and then return to the Board with hard numbers of exactly what is requested.

Trustee Flood stated that it should be a new application. If they postpone, they would be looking at the same application again.

Ms. Bilan stated that she has no problem with applying again but she does not want to pay the fee again.

Board member Walker stated that he would not want to vote on a variance that he does not know the dimensions of. He suggested that the petitioner come to the Board with what she wants to build.

Ms. Bilan stated that Mr. Goodloe understands what she wants to do.

Board member Walker stated that Mr. Goodloe doesn’t have the authority to grant a variance and he will not grant a variance without knowing what is going to be built.

Ms. Broquet stated that the petitioner wants to build a garage made up of 1,000 square feet. The log cabin plus the gazebo should be added to that.

Board member VanTassel stated that she understands that the petitioner is proposing the construction of a garage that is 1,000 square feet. She also knows that when it is dimensioned out, it could be slightly different. She stated to grant a 1,000 square foot variance at this point. She stated that the options are to take the original request back to the planning department to discuss options and then readvertise with changed dimensions. The other option is to say that she is going to start all over from scratch.

Building Official Goodloe recommended that the petitioner asks to postpone and then the petitioner should come to the office and staff will help her with an updated request to the Board.

Ms. Bilan asked to postpone.

Trustee Flood stated that they already asked for postponement on April 10, 2023. He does not feel comfortable asking for it again.

Board member Dunaskiss stated that there was a misunderstanding on what should have been documented or written. She supports a postponement for this petitioner.

Board member VanTassel confirmed the dates available for postponement.

Ms. Bilan stated that she would like to ask for postponement to come back with a clear picture of what she wants.

Chairman Durham confirmed that he would support postponement for this case and he explained. When the petitioner comes back, he urged her to come back with a clear picture of what is proposed.

Board member VanTassel moved, supported by Board member Dunaskiss, that in the Case of ZBA AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002, at the petitioner’s request, to be postponed until June 26, 2023.

Roll call vote was as follows: Flood, no; Walker, yes; VanTassel, yes; Dunaskiss, yes; Durham, yes. Motion passes 4-1.

Board member VanTassel left the Board table.
C. AB-2023-09, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.)

Chairman Durham read the petitioner’s request as follows:

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

1. A 20-ft. front yard setback variance from the required 30-ft. to build a house 10-ft. from the property line along Pine Ave.

Mr. Seit Selimi introduced himself to the Board.

Chairman Durham asked for further clarification of the variance request.

Mr. Selimi stated that the water is on both sides of the property and it doesn’t square off; it comes up on both sides. According to ordinance standards, he needs to be 50 feet away from the water’s edge on both sides for the septic field and this is why he needs the variance.

Chairman Durham stated that the variance is so the petitioner can install a septic field on his property.

Mr. Selimi concurred.

Trustee Flood asked about the road right-of-way.

Mr. Selimi pointed out the right-of-way lines on the drawing.

Trustee Flood stated that he is concerned about sight line.

Chairman Durham asked if the property catches water runoff in the spring.

Mr. Selimi answered no.

Chairman Durham asked for public comment.

Mr. Elmer Claycom introduced himself to the Board. He asked where the driveway was going to be on Pine Avenue. The lot line is within 5 feet of the road right now and he explained.

Building Official Goodloe stated that the road is probably encroached onto this property.

Mr. Claycom stated that the road marker is within five feet of the road. There is a lot of traffic there and he would like to know where the driveway is going to go.

No further public comment was heard.

Trustee Flood stated that Walnut Road is a County Road and he knows that Pine Tree is for sure.

Mr. Selmi stated that Oakland County comes through and grades the road.

Board members discussed the ownership of surrounding roads to the subject property.

Mr. Selmi stated that the driveway will not come off of Pine Avenue and he pointed out the proposed driveway location on the displayed drawing.
Vice-chairman Cook asked the purpose of the cone that was on the property.

Mr. Selmi answered that he put the cone on a pipe that is there.

Vice-chairman Cook asked if he had a proposed design of the home.

Mr. Selmi replied that he did not get a chance to provide the updated plot plan.

Vice-chairman Cook asked if the neighbor’s deck was encroaching.

Mr. Selmi answered no. He did not go look down the line, but he would assume that it is not. It is his boat that is stored on the property.

Vice-chairman Cook stated that he doesn’t like not seeing the design of the home.

Building Official Goodloe asked about the positioning of the house.

Mr. Selmi stated that it would be in the front so he would not have to worry about the wetlands. He explained the area that the house would be located in.

Trustee Flood commented on the angling of the property. Another practical difficulty is two front setbacks because there are two fronts. He urged the petitioner to position the house far enough back to not impede the line of sight.

Mr. Selmi stated that the house would be located in the same line as his neighbor’s house.

Trustee Flood agreed with Vice-chairman Cook regarding the house design.

Vice-chairman Cook asked if the petitioner took the placement of the road into account when looking at the placement of the house.

Mr. Selmi answered that he will probably have to get another variance.

Chairman Durham commented that the petitioner will not be able to move forward even if he is successful tonight.

Mr. Selmi stated that he would need a variance for the fronting on Walnut; he assumed it was Pine Avenue. He understands that it is his mistake.

Board member Walker commented that he doesn’t want the petitioner to come back for a variance on the variance. He suggested that it might be better if the petitioner does it all at one time.

Trustee Flood stated that this would be a variance increase.

Board members discussed the options for this petitioner.

Mr. Selmi confirmed that he would like to withdraw the case and reapply.

Board member Dunaskiss moved, supported by Trustee Flood supported, that in the matter of ZBA Case AB-2023-09, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.) to withdraw the request per the petitioner’s request.

Roll call vote was as follows: Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham, yes. Motion passes 5-0.
D.  AB-2023-10, XL Fireworks Temporary Use Permit for an Open Air Business, 664, 666, 668, 670, 674, 678, 684, 686, 688, 690, 694, 698, 700, 702 & 704 S. Lapeer Rd., 09-11-428-011

Per Zoning Ordinance #78, Article XXX, Section 30.11(F)(1)(b); the petitioner is requesting a Temporary Use Permit for Open Air Business, to sell consumer fireworks from a tent June 20, 2023 – July 5, 2023.

Mr. Jeff Guy and Tim Damico introduced themselves to the Board and summarized the variance request.

Trustee Flood commented on the conditions of the approval including compliance with Fire Marshall and the Township having up to date contact information.

Chairman Durham asked if there was any interaction last year between the Township and these individuals.

Building Official Goodloe replied no.

Mr. Jeff Guy replied that they used the battery packs last year and did not use the generator.

Trustee Flood confirmed the dates and hours of operation.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, and Vice-chairman Cook supported, in Case AB-2023-10, XL Fireworks Temporary Use Permit for an Open Air Business, 664, 666, 668, 670, 674, 678, 684, 686, 688, 690, 694, 698, 700, 702 & 704 S. Lapeer Rd., 09-11-428-011 for a variance Per Zoning Ordinance #78, Article XXX, Section 30.11(F)(1)(b); that a Temporary Use Permit for Open Air Business, to sell consumer fireworks from a tent June 20, 2023 – July 5, 2023 be granted. The applicant would be using the property for a permitted purpose and have demonstrated that they will be complying with the required conditions for an open air business. The conditions of approval are as follows:

1. There will be no other open air business for fireworks within one mile

2. The applicant will provide to the Building Department phone numbers of people that can be reached any time of day or night

3. The hours of operation will be 10:00 am to 10:00 pm June 20, 2023 through July 5, 2023

4. Articles will be stored in a storage pod or something similar after hours

5. The applicant will provide the Township with a current copy of the liability insurance listing Orion Township as an additional insured

6. The applicant will provide the Township with a copy of their Michigan Department of Licensing and Regulatory Affairs Consumer Fireworks License

7. Fire Department approval will be required prior to opening

8. The applicant must provide a $1,000.00 cash bond for a reinspection of the site once the operation has been removed

9. Approval is for the plan date stamped received March 29, 2023
Roll call vote was as follows: Dunaskiss, yes; Cook, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 5-0.

E. AB-2023-11, Chris Morgan for 406 Shorewood Dt., 09-03-405-010

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78 – Zoned R-3

Article VI, Section 6.04
1. A 16.1-ft. front yard setback variance from the required 30-ft. for the proposed porch to be 13.9-ft. from the front property line (Shorewood Ct.).
2. A 12-ft. front yard setback variance from the required 30-ft. for the proposed attached garage to be 18-ft. from the front property line (Shorewood Ct.).
3. A 14-ft. rear yard setback variance from the required 35-ft. for a proposed porch to be 21-ft. from the rear property line (lake side).
4. A 29% lot coverage variance above the allowed 25% for a total lot coverage of 54%.
   Article XXVII, Section 27.01(C)(1)(b)
5. A 1-ft. side yard setback variance from the required 7-ft. for a proposed porch to be 6.9-ft. from the side property line to the south.
   Article XXVII, Section 27.03(C)(3)(b)(ii) & (iii)
6. A 10.7-ft. rear yard setback variance from the required 20-ft. for a deck to be 9.3-ft. from the rear property line (lake side).
7. A 10.7-ft. water’s edge setback variance from the required 20-ft. for a deck to be 9.3-ft. from the water’s edge (lake side).
   Article XXVII, Section 27.17(B)
8. A 4-ft. wetland setback variance from the required 25-ft. for a proposed porch to be 21-ft. from a wetland (the lake).

Mr. Chris Morgan introduced himself as representing Mr. and Mrs. Hudson, property owners of 406 Shorewood Drive and he summarized the variances requested to install a covered porch. Overall, although they are asking for eight variances, they are reducing existing nonconformity by eliminating structures. They are only increasing the lot coverage by a little over 2% and will be further away from the neighbor’s house to the south because they will be further away from the property line. They are also not blocking the neighbor’s lake view.

Chairman Durham asked who put up the nonconforming decks and other structures that the petitioner is removing.

Mr. Morgan replied the previous owners of the property.

Board member Dunaskiss asked if the total lot coverage at the end will be 54%.

Mr. Morgan replied yes; it is 52% now.

Vice-chairman Cook asked about the removal of the existing decks.

Mr. Morgan replied that two of the decks will be removed completely and the third deck will be reduced to create a greenspace. The elevated deck will be removed completely. The deck that has the doors that exit onto it will be made smaller. The proposed covered porch will be part of the addition behind the garage.

Chairman Durham asked how he would answer the questions regarding practical difficulty.

Mr. Morgan answered that the practical difficulty is where the house sits currently and where the structures sit currently, none of it complies with the standards today. The petitioner did not create these
nonconformities, they were preexisting. There were some variances granted in the 1980’s but because there is nothing the homeowner could do to the property that would not require a variance. In comparison to other properties in the area, he does not believe that any comply with the front yard setback and many do not comply with the rear yard or lot coverage standards. This is a unique situation in this area.

Chairman Durham stated that the Board cannot be held accountable with what has happened in the past.

Mr. Morgan replied that they were trying to be sensitive to current standards by decreasing setbacks where they could and decreasing lot coverage by eliminating structures. They are adding a master suite, two porches and a garage, they are only netting an additional 103 square feet of lot coverage. The goal was to net zero on the lot coverage. The bedrooms and addition are not excessive. They are proposing a 1 and ½ car garage and reduced the storage area.

Chairman Durham asked what the lot dimension was.

Mr. Morgan replied it is 4,460 square feet. It is 60 across the front and 85 on the south side and 77/78 on the north side. It is a small lot.

Trustee Flood stated that it is irregular shaped.

Chairman Durham asked for public comment.

No public comment was heard.

Vice-chairman Cook asked where the bedroom is proposed to go.

Mr. Morgan pointed out the proposed addition area, proposed garage and proposed covered porch on the plan. He pointed out a covered walkway on the plan.

Vice-chairman Cook asked for clarification.

Mr. Morgan provided clarification on the proposed addition.

Vice-chairman Cook asked how many trees are being lost.

Mr. Morgan replied one.

Board member Walker stated that what bothers him is the number of variances, the size of the property and the practical difficulty that the homeowner has now that forces him to do what he is doing. These variances aren't large but there are a lot.

Mr. Morgan stated that there is precedence in that area and he explained. The only thing that they are increasing is the lot coverage.

Vice-chairman Cook asked what the practical difficulty is.

Mr. Morgan replied the preexisting nonconforming structures. It is a small lot and irregularly shaped lot. He doesn't know if this lot is smaller than others in the area.

Mrs. Hudson, property owner, stated that the practical difficulty is the fact that it is a two-bedroom home and they have three children and need three bedrooms. They tried to add a bedroom with the least amount of disruption.

Mr. Morgan stated that this structure could not support a second level structure and he explained.

Chairman Durham read the last two lines of the standards outlining practical difficulty.
Mr. Morgan explained why the variances requested were not self-created. There is nothing that they can do to this property that would not require a variance.

Chairman Durham explained the function of the Board.

Chairman Durham asked for public comment.

Marlow Hudson, daughter of the property owner, stated that what they are trying to do is important. This is not due to economic or personal difficulty. The lot itself creates the hardship. The lot is currently not used to its possible beauty. The lot and the house could look a lot better, and its own appeal would make the neighborhood look better. There have been no negative comments from the neighbors.

Mr. Morgan stated that having fewer bedrooms does limit their ability to use the property the way they want to.

Building Official Goodloe asked the petitioner to go through each variance request and say whether it is increasing or decreasing.

Mr. Morgan answered that #1 is stagnant, #2 is decreasing, #5 is decreasing, #6 and #7 are the same although the deck is smaller and #8 is new. The lot coverage is the biggest ask.

Building Official Goodloe asked about drainage plans.

Mr. Morgan stated that the lot drains front to back. They are creating more greenspace so they will have more absorption for water runoff.

Building Official Goodloe commented on the case.

Mr. Morgan stated that there is a lot of concrete there that is not in the calculation.

Trustee Flood stated that there are eight variances but some of them are very small. These lake properties are unique and there are standards to uphold as distance from water and wetlands that make this difficult.

Chairman Durham commented that the Fire Marshall has no issues with the proposed plan.

Board member Dunaskiss stated that there are a lot of variances but she feels that they have done the best that they can with what they had to work with. A two-bedroom home today is pretty unique, three bedrooms are needed. They are repurposing the property in a manner that is beneficial and are reducing the decking and adding greenspace.

Board member Walker moved, supported by Trustee Flood, that in the mate of ZBZ Case #AB-2023-11, Chris Morgan for 406 Shorewood Ct., 09-03-405-010 in which the petitioner is seeking 8 variances from Zoning Ordinance #78 – Zoned R-3 Article VI, Section 6.04 including a 16.1-ft. front yard setback variance from the required 30-ft. for the proposed porch to be 13.9-ft. from the front property line (Shorewood Ct.), a 12-ft. front yard setback variance from the required 30-ft. for the proposed attached garage to be 18-ft. from the front property line (Shorewood Ct.), a 14-ft. rear yard setback variance from the required 35-ft. for a proposed porch to be 21-ft. from the rear property line (lake side), and a 29% lot coverage variance above the allowed 25% for a total lot coverage of 54%; Article XXVII, Section 27.01(C)(1)(b) for a .1-ft. side yard setback variance from the required 7-ft. for a proposed porch to be 6.9-ft. from the side property line to the south; Article XXVII, Section 27.03(C)(3)(b)(ii) & (iii) for a 10.7-ft. rear yard setback variance from the required 20-ft. for a deck to be 9.3-ft. from the rear property line (lake side) and a 10.7-ft. water's edge setback variance from the required 20-ft. for a deck to be 9.3-ft. from the water's edge (lake side); Article XXVII, Section 27.17(B) for a 4-ft. wetland setback variance from the required 25-ft. for a proposed porch to be 21-ft. from a wetland (the lake) be granted for plans date stamped April 12, 2023 because the petitioner did
demonstrate that the following standards for variances have been met in this case and that they set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty: much of this is due to the unique characteristics of this particular property and is not related to all 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 this same district or zone: at least three of these variances are reducing the nonconformity of existing variances on the property. The petitioner has indicated that he is going to enlarge the greenspace and make it more earth-friendly.

3. The variances are necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: this is currently a two-bedroom home and although it was a two-bedroom home when they purchased it, they would still prefer to have a third bedroom and this is a practical difficulty.

4. The granting of the variances or modifications will not be materially detrimental to the public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located.

5. The granting of these variances would not impair an adequate supply of light or air to the adjacent properties, they will not unusually increase congestion on the public streets. There is also not going to be an increase of fire, in fact, the Fire Marshall has indicated that he has no issue with the variances requested. The granting of the variances will not endanger the public safety, and are not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

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

F. AB-2023-122, Erik Heiderer, 1382 Goldeneye Lane, 09-25-401-024

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SC

1. A 9.63-ft. rear yard setback from the required 35-ft. for a proposed sunroom to be 25.37-ft. from the rear property line.

Mr. Erik Heiderer, architect, introduced himself as representing the property owner and summarized the variance request for a three-story addition on the back of the home to house the owner’s elderly parents. The house to the left and to the right are angled significantly so it would not affect the lake view. He pointed out two other variances that were successful on the same street for covered porches. If the property was more of a rectangular shape, it would be more conducive to what they want to do.

Trustee Flood stated that bringing in the elderly parents to live with them is common. It would be good for their health to be able to get out in the sunroom for fresh air. He doesn’t know if this is a hardship or not. If they are handicapped, this helps too.

Mr. Heiderer replied that both parents are in their mid 80’s.

Trustee Flood agreed with the petitioner as to the angling of the next door properties.
Mr. Heiderer stated that they do have a retention pond in the back.

Trustee Flood stated that he noticed a lot of these properties have French doors that go nowhere.

Mr. Heiderer stated that they recessed the third floor in the back and he explained the proposed design of the sunroom.

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

No public comment was heard.

Vice-chairman Cook moved, supported by Board member Dunaskiss, that in the matter of ZBA Case #AB-2023-122, Erik Heiderer, 1382 Goldeneye Lane, 09-25-401-024 requesting 1 variance from Zoning Ordinance #78 – Zoned SC for a 9.63-ft. rear yard setback from the required 35-ft. for a proposed sunroom to be 25.37-ft. from the rear property line, be granted for plans date stamped April 12, 2023 because the petitioner does demonstrate that the following standards for variances have been met in this case and that they set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty: due to the unique characteristics of this particular piece of property and its trapezoidal shape, it presents some things that are unique to this subdivision, not this particular street.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the property is trapezoidal shaped and additionally, it has a retention pond that is behind it.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: this family is taking in their parents and in order to preserve and enjoy that and make sure that their parents can get around the property, this addition is necessary to do this in a safe manner. The property does slope towards the retention pond and having them in this enclosed space with a deck will be a lot safer for them.

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 improvements in such areas or districts in which the property is located.

5. The granting of this variance would not impair an adequate supply of sunlight or air to the adjacent properties, it would not unusually increase congestion on the public streets. There is also not going to be an increase of fire, as the Fire Marshall submitted a letter citing no concerns. This granting of the variance is not going to reasonably diminish or impair established property values within the surrounding area.

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

Chairman Durham commented on the strength of the Board.
Trustee Flood updated the Board on the following events: Saturday, June 3, 2023 is a hazardous waste event; free shredding day at the Orion Center and on June 10, 2023, Waste Management is holding a free disposal day.

10. ADJOURNMENT

Moved by Board member Dunaskiss, seconded by Chairman Durham, to adjourn the meeting at 9:33 pm.

Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; Cook, yes. Motion passes 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
TO: The Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: May 31, 2023
RE: Case location for ZBA Meeting 6/12/2023

Below is the location of a ZBA case for the June 12, 2023, meeting.
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: May 31, 2023
SUBJECT: Staff Report for AB-2023-13, Mike & Andrea Carr, 2438 Knotty Willow

As you can see from the Property Gateway view of the subject property, it has an irregular shape, borders Voorheis Lake on a west side, and contains a large wetland running from the middle of the property to the rear property line. I have noted on this aerial view what is considered the front property line, side property lines, and rear property line.

The applicant is proposing to build a home with an attached garage on the parcel which meets the front, rear and side yard setbacks, and the setback from the Voorheis Lake, but will not meet the 25-ft. wetland setback. The applicant is requesting a 10.38-ft. wetland setback variance from the required 25-ft. to build the attached garage 14.62-ft. from the wetland.

Please note that one of the applicants’ practical difficulty’s was staying off of the existing sanitary sewer line and water main line that crosses the property on the west side.

Lot coverage will not be exceeded and the height of the house will be under the 30-ft. limitation.

Per a note on the Fire Marshal’s review regarding the driveway – the applicant has indicated the driveway shown on the plans is a driveway and not a private road.

If a motion is to approve, please add to the motion that approval is for plans date stamped May 5, 2023, and that the applicant addressed the Fire Marshal’s question - access from Knotty Willow to the applicant’s home is via a driveway, ....

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: June 1, 2023

RE: AB-2023-13, Mike & Andrea Carr, 2438 Knotty Willow Ln., 09-21-176-098

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

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

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

If you have any questions regarding the case, please give me a call at the Township ext. 5001.
SAMPLE MOTION FOR
APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2023-13, Mike & Andrea Carr, 2438 Knotty Willow Ln., 09-21-176-098, I would move that the applicant’s request for:
1 variance from Zoning Ordinance #78Article XXVII, Section 27.17(B)


be granted for plans date stamped May 5, 2023, and that the applicant addressed the Fire Marshal’s question (access from Knotty Willow to the applicant’s home is via a driveway), because the applicant did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

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

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

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

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

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

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

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

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

5. Or, In any other respect, 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-2023-13, Mike & Andrea Carr, 2438 Knotty Willow Ln., 09-21-176-098**, I would move that the applicant’s request for:

1 variance from Zoning Ordinance #78Article XXVII, Section 27.17(B)


be denied for plans date stamped May 5, 2023, because the petitioner did not demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

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

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

3. The variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts:

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

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

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

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

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

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

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

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

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

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

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
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 $250.00 for a residential application.

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

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

APPLICANT
Name: Mike & Andrea Carr
Address: 2815 Harvest Circle Ct
Phone: 586 822 9603
Fax: 
Email: mikec@oeyusa.com

PROPERTY OWNER(S)
Name(s): Mike & Andrea Carr
Address: 2815 Harvest Circle Ct
Phone: 586 822 9603
Fax: 
Email: mikec@oeyusa.com

CONTACT PERSON FOR THIS REQUEST
Name: David Hamilton
Phone: 586 531 4176
Fax: 
Email: info@hamiltonhomesmi.com

SUBJECT PROPERTY
Address: 2438 Knotty Willow Lane, Lake Orion
Sidewall Number: 09-21-176-098
Total Acreage: 1.97
Length of Ownership by Current Property Owner: 0 Years, 5 Months
Does the owner have control over any properties adjoining this site? No
Zoning Ordinance
Allowance/Requirement

Deviation requested

Page 2 of 4
Version 1/4/2022
Residential Variance

1. Describe in detail the nature of the request
   Allow for a driveway and a garage for a new home to be constructed within the required 25' Wetland setback. The corner of the garage pushes into the wetland setback 13.5'. No wetlands will be damaged with the proposed condition. The area encroached upon is 865 Square Feet.

2. Describe how the request from special or unique circumstances particular to the property, which are not application to other properties in the surrounding area
   The entire parcel measures 84,500 Square Feet. The wetland measures 54,144 SF (64.1%). There are also water and sewer easements at the rear of the homesite that further encroach on the building envelope. The combination of both the 25' wetland setback and the water and sewer easements at the rear of the homesite make the construction of a proposed home on the northern side of the lot very impractical.

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 in the Township
   The proposed wetland setback encroachment is not in a side yard, nor is it facing another parcel. The grade of the garage at the side will be dropped to very closely match the existing grade. The edge of the driveway will have a retaining wall, so we can keep the natural grade in the wetland setback area. After construction, a native seed mix will be used to restore any disturbed areas. Once the garage and driveway are completed, a permanent barrier will be created by these two structures, so the wetlands would no longer be impacted.

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible.
   The buildable area of this parcel is significantly smaller than the parcels to the south. The other homes in this development are much larger. The house to the south is about 6,167 Square Feet versus the proposed home and garage measure 3,752 Square Feet.

5. Describe how the alleged practical difficulty has not been self-created
   This land was split by others. It was heavily wooded when it was purchased and the relatively small building area was not understood at that time. The challenge of the building envelope is due to a combination of both the water and sewer easement as well as the wetland setback. These two issues happened at different times and neither one on its own creates an need for a variance. It is only the combination of both issues that creates the need for the variance for a driveway to get back to a relatively small building area.

6. The topography of said land makes the setbacks impossible to meet because
   The topography of this parcel is certainly a nice feature. Having a new home with Voorheis lake to the west and the wetland with standing water to the east is certainly a nice feature. However, finding room creates a hardship.

7. Describe how strict compliance with the ordinance unreasonable prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome.
   The strict compliance of the wetland setback in combination with the water and sewer easements at the rear of the lot create a very restrictive building envelope for this homesite.
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: 5/5/23

Print Name: Michael & Andrea Carr

Signature of Property Owner: ________________________________ Date: 5/5/23

Print Name: Michael & Andrea Carr

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: ________________
AB-2023-13 Mike & Andrea Carr,

09-21-176-098  1.968 acres  85,726.08'
25% = 21,431.52  Zoned R-2

Front yard setback 35'  over 35' OK
Side yard setbacks 10'  South 10' OK North
Rear yard setback 35'  OK
House from wetland 25'  14.62  10.38 variance
Deck from wetland 10'  OK
Deck from shoreline 20'  63.82  OK
Deck from rear property line 20'  OK
Height 21.16'  OK

What is the closest point of the garage to the main property line? 14.62' OK.

What is the square footage of the garage including any above main floor storage? 864'

Overall height at mid-point 21.16' OK
Lanai from side prop. line 10' OK

Maximum floor area of detached accessory structures:

Of all accessory structures = 1,500'
Attached garage is 864' OK
Courtney Keisman

From: Jeff Williams
Sent: Monday, May 22, 2023 4:39 PM
To: Courtney Keisman
Cc: John Pender
Subject: RE: ZBA Documents for the June 12, 2023 ZBA Meeting

The fire department has reviewed the proposed documentation and has no concerns at this time.

The only thing I had a question on is the driveway. This is just a driveway and not a private road, correct?

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

From: Courtney Keisman <ckeisman@oriontownship.org>
Sent: Monday, May 22, 2023 1:29 PM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: ZBA Documents for the June 12, 2023 ZBA Meeting

Mr. Williams.

Hello Jeff. Attached is a ZBA case that needs to be reviewed by you for the June 12, 2023 ZBA Meeting.

Thank you,

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

From: Mike Carr <MikeC@oexusa.com>
Sent: Wednesday, May 24, 2023 9:26 AM
To: Lynn Harrison; David Hamilton
Subject: Re: Knotty Willow Variance Request

Hi Lynn

Definitely just a driveway

Thanks
Mike

Get Outlook for iOS

From: Lynn Harrison <lharrison@oriontownship.org>
Sent: Wednesday, May 24, 2023 8:23:44 AM
To: Mike Carr <mipec@oexusa.com>; David Hamilton <david@hamiltonhomesmi.com>
Subject: Knotty Willow Variance Request

Guys, it is our process to send all ZBA cases to the Fire Marshal to review. He has asked if what is shown on the plans as the driveway is truly a driveway and not a private road. Could one of you please respond to this comment via this email.

Thank you,
Lynn Harrison

From: David Hamilton <david@hamiltonhomesmi.com>
Sent: Wednesday, May 24, 2023 9:25 AM
To: Lynn Harrison
Cc: mikec@oexusa.com
Subject: Re: Knotty Willow Variance Request

Good morning Lynn, it is a driveway.

Thank you
DH

David Hamilton

---

On May 24, 2023, at 8:23 AM, Lynn Harrison <lharrison@oriontownship.org> wrote:

Guys, it is our process to send all ZBA cases to the Fire Marshal to review. He has asked if what is shown on the plans as the driveway is truly a driveway and not a private road. Could one of you please respond to this comment via this email.

Thank you,

Lynn Harrison
Specialist
Planning & Zoning

2323 Joslyn Road ‖ Lake Orion, MI 48360
O: 248.391.0304, ext. 5001
www.lharrison@oriontownship.org