1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 05/23/2022 ZBA Regular Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
      Per Zoning Ordinance #78, Article 30, 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, 2022 - July 5, 2022.
6. PUBLIC COMMENTS
7. COMMUNICATIONS
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
10. ADJOURNMENT

In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to request accommodations.
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, May 23, 2022, at 7:00 pm at the Orion Township Community Center, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS ABSENT:**

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

**OTHERS PRESENT:**
Jerry Chapman  
Terri Chapman  
Cyndi Israel  
David Ford  
Josh Spielbusch  
Marc McClintock  
Joel Altus  
Catherine Altus  
Harvey Altus  
Ron Gentry  
Tim Finney  
James Sudish  
Kathryn Kennedy  
Sean Awdish

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

2. **ROLL CALL**

3. **MINUTES**

A. **05-09-2022, ZBA Regular Meeting Minutes**
Trustee Flood moved, seconded by Board member Dunaskiss, to approve the 05-09-2022 minutes as presented.
Motion Carried

4. **AGENDA REVIEW AND APPROVAL**
Trustee Flood moved, seconded by Chairman Durham, to approve the agenda as presented.
Motion Carried

5. **ZBA BUSINESS**

A. **AB-2022-13, Marc McClintock, Vacant Parcel 1 Parcel north of 484 Cushing Street, 09-03-278-031 (postponed from 4/25/2022 meeting)**
Chairman Durham read the petitioners request as follows:
The petitioner is seeking 3 variances from Zoning Ordinance #78
Article VI, Section 6.04, Zoned R-3
1. A 3-ft. front yard setback variance from the required 30-ft. to construct a new home with an attached garage 27-ft. from the front property line (road side).
2. A 4-ft. side yard setback variance from the required 8-ft. to construct a new home with an attached garage 4-ft. from the side property line (north)
3. A 9.62% lot coverage variance above the allowed 25% for a total lot coverage of 34.62%.

Board member Dunaskiss notified the Board members that she lived within 300 feet of the subject parcel.

Trustee Flood stated that the Township Board recently approved the new by-laws which removed the 300 feet ruling out to be recused. You now must be a relative or have a monetary interest to be recused. He has no problem allowing Board member Dunaskiss to remain on the Board.

Board member Walker moved, supported by Chairman Durham, that Board member Dunaskiss not be recused pursuant to the latest changes in the by-laws by the Board of Trustees.

Motion Carried

Mr. McClintock introduced himself.

Chairman Durham stated that at the last meeting, Mr. Goodloe had some concerns about drainage and Mr. McClintock was going to do some research and come back to the Board.

Mr. Chuck Marquetti, architect, introduced himself.

Board Member Walker stated that the drainage was the only issue at the last meeting. He is prepared to make a motion based on the representations by the petitioner and the application.

Trustee Flood stated that everything else is in compliance in his opinion.

Vice-chairman Cook asked Mr. Marquetti for a summary of the property and its challenges.

Mr. Marquetti summarized the proposed changes and the changes made to the plan since the last meeting. Contours and topography were revised in the plans to show the drainage and to show that the drainage was not going to affect adjacent properties.

Chairman Durham asked Building Official Goodloe if he has reviewed the new information.

Building Official Goodloe stated that he reviewed the packet and the elevation was changed and they match the contours of the property. The swale was also added. He is comfortable with the proposed plan.

Vice-chairman Cook asked about the rating of the wall facing the road.

Mr. Marquetti stated that they will make sure that this wall is a fire rated wall. The window opening percentage is under what is required.

Building Official Goodloe stated that he did question when you have properties that are very close, sometimes you have an issue with foundations and that is not the case with this variance request.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Board member Walker moved, supported by Trustee Flood, that in the matter of ZBA Case # AB-2022-13, Marc McClintock, Vacant Parcel 1 Parcel north of 484 Cushing Street, petitioner requesting
3 variances from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-3 including a 3-ft. front yard setback variance from the required 30-ft. to construct a new home with an attached garage 27-ft. from the front property line (road side), a 4-ft. side yard setback variance from the required 8-ft. to construct a new home with an attached garage 4-ft. from the side property line (north) and a 9.62% lot coverage variance above the allowed 25% for a total lot coverage of 34.62% be granted because the petitioner:

1. Has been before the Board three times and every time he comes back, there have been changes made and he has cooperated with the Building Official and with the Board to make those changes.

2. This property is part of 3 or 4 parcels that make up this area of the lake front and this property is the last of them. These variances are less than previous variances that have been granted.

3. The petitioner does show the following practical difficulty: this property is on the lake and space is at a minimum. The petitioner has worked hard to work this into the footprint.

4. 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 property is right on lake front and there is a road that passes through. The difficulties are numerous but they have managed to overcome them.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire, or endanger public safety. The petitioner has indicated that the wall in question will be a fire rated partition. The drainage issues that were at the forefront of the last meeting have been resolved to the satisfaction of the Building Department. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Chairman Durham asked if there was any public comment on the motion.

A resident asked about the case on Judah Road.

Chairman Durham indicated that this was not that case and no further public comment was heard.

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


Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-1 Article XXVII, 27.02(8) - Lot size over 2.5 acres

1. A 1,260-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to build a 2,660-sq. ft. pole barn.

2. A 1,289-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 2,660-sq. ft. pole barn in addition to an existing attached 529-sq. ft. garage.

Ms. Mary Chapman introduced herself to the Board.

Chairman Durham commented on the added driveway. The petitioner is asking for almost double the allowable. He asked the petitioner how she plans on using the space.
Ms. Chapman stated that the current house has a small garage that doesn’t fit a car or truck. They have an ATV that fits in it now. They have a couple of kayaks too. Their primary house is about 30 minutes away. It is a getaway house and they are trying to make it usable for their family and enhance it. They will put their two sprinter vans in the new pole barn and also add a kitchen and a bath. There will be no commercial activity. They have not updated the house yet so they may stay in the sprinter van or the new space.

Chairman Durham commented that one of the most dangerous things is for a family to be sleeping in an area where they are not expected. The Fire Department would first go to the house above and would have no reason to think that there are people in the shed below. He stated that having people in there overnight would be a bad idea.

Ms. Chapman stated that it was more of a kitchenette and a large deck. The plan for the house is to update it including paint and carpet.

Trustee Flood asked the size of the pole barn.

Ms. Chapman 60’ X 38’ plus the front porch.

Trustee Flood commented that this was the size of a horse barn. There are no setback requests with this petition. He asked if they would consider a smaller building.

Mr. Chapman introduced himself to the Board. He stated that there is another family with them that also owns the property. There are two Sprinter vans and this pole barn would be the right size to house them both. They do not have garages currently that are usable.

Chairman Durham asked how the Sprinter vans are used.

Mr. Chapman replied traveling. They want to be able to drive them down to the cement pad and be able to spend the night by the water.

Chairman Durham stated that they are setting the stage for a fair amount of people to be there at any one time.

Mr. Chapman replied not at all. This is for two of the families to use.

Chairman Durham stated that the building will not be readily visible and will be useful to the petitioner. They were asked if they would consider a smaller building.

Mr. Chapman stated that the pole barn will be beautiful to look at and it is exactly what they need.

Chairman Durham asked if the petitioner will take down the other storage building.

Mr. and Mrs. Chapman replied that there is not another storage building.

Board member Dunaskiss replied that it is a garage that goes under the house.

Board member Walker asked when the petitioner purchased the house.

Petitioner replied December 2021.

Board member Walker asked if this is the first home they have bought.

Petitioners replied no.

Chairman Durham read a letter to the Board that was received from a neighbor opposing the petitioner’s request. He feels that it is too large and out of proportion to others on the street. He stated that there is
nothing to obscure the building from the street or neighbors. The neighbor is also opposed to the use of the pole barn. It is not just going to be RV storage; it has drywall kitchen and bathroom and essentially creates a home.

Building Official Goodloe stated that he is concerned with the two owners and how it is going to be used. He asked how tall the proposed building is going to be.

Petitioner replied 23 feet.

Building Official Goodloe asked how high the walls are.

Petitioner replied 14 feet.

Chairman Durham asked if once the building is up, if the Building Department would have any way to determine if anyone was sleeping in that building.

Building Official replied no. He is concerned about this use.

Ms. Chapman replied that they are not building a bedroom and are only building a kitchenette.

Vice-chairman Cook referred to the application. It said the building was 2200 square feet and the building that they are presenting tonight is 2600 square feet.

Mr. Chapman stated that there is a porch on the lake side and this makes up the additional square feet.

Vice-chairman Cook stated that the application calls them RV’s but the petitioner is referring to them as Sprinter vans.

Ms. Chapman and Mr. Chapman confirmed the specifications of the vehicles that are being parked inside the proposed building.

Vice-chairman Cook asked what the white pipes are that are sticking out of the ground.

Mr. Chapman stated that these are creating the space for future wiring. They are currently empty but are set to use at a future date.

Vice-chairman Cook commented on the size of the structure and the fact that this is a vacation home. He stated that it is a great view and why obstruct it with a building.

Ms. Chapman replied that you cannot see the view from the house. There is no porch on the house.

Mr. Chapman stated that from the street, there is a large pine tree that will block the building. The objective is to be able to create views and there was a lot of foliage and an old building that was removed.

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

Ms. Kathryn Kennedy stated that her concern is the natural resources and she doesn’t think they should be building so close to lakes. She commented on the size of the structure and the pipes sticking out of the ground. She doesn’t think it is safe to have a bunch of people in a pole barn without property safety. This will obstruct the view, damage the natural resources and she thinks they should make an effort to stop filling in wetlands.

Mr. Tim Finney stated that he is opposed to the variance request. When the petitioner moved in, they took down too many trees and he can now see the neighbor’s house. The building is going to be too big for the area. It seems that there is going to be a campground there now. Judah Road and Judah Lake is a sleepy community and it is too much for this area.
Chairman Durham asked how many lot widths Mr. Finney is from the subject parcel.

Mr. Finney replied next to the subject is Joe and he is the next one to the east.

Mr. Harvey Altus stated that he is an attorney representing Joe and Cathy Altus, 2736 Judah, located to the east of the subject property. They are here in opposition to the variance. They are concerned that this pole barn is part of a large plan for the property that will drastically change the characteristics of this neighborhood. He has been retained for the investigation of a complaint. He has been doing some investigating and it leads him to believe that the changes to the property is in keeping with creating a commercial enterprise where there will have a high turnover of people coming and going on this property. He understands that they say that this is not the intent, they just want a place to get away for the weekend. But, they are seeing a huge structure in the middle of a quiet neighborhood. There is a road placed that goes past the existing house, past the proposed pole barn and stops at a parking lot that accommodates twenty vehicles. It may accommodate four or five RV’s and a lot of cars. The plans are to create a beach and wetlands have already been removed. This parking lot is meant to encourage a large amount of people to come onto the property on a rotating basis. They are going to see cars coming and going down this road at all times of the day and night. This is not conducive to a single family neighborhood. This is the concerns for his client and all of the neighbors that he has talked to so far.

Chairman Durham stated that he has heard what this person believes is going to happen and asked if they had evidence of things ongoing.

Mr. Altus stated that his concern is for the future but it is based on evidence that he sees. He reiterated the road placement and parking lot placement. The proposal is to put up a pole barn that is larger than any home on the street now. This proposed building has plumbing, electrical and has a septic close to the lake. The proposed structure will block the view of neighbors. It is also based on what has been going on in the County so far. Some of the construction and permits that have been pulled might violate ordinances and have environmental concerns. There was a stop work order issued to the property already and that order was ignored and the police were called. This is in keeping with a business enterprise that has no business in a residential neighborhood. He commented on the criteria that the Board looks at when determining whether or not to grant the variance and explained how this variance request is in opposition to those criteria. He is hoping that the variance is denied.

Building Official Goodloe stated that the ordinance lays out what you have to have to allow an increase in area and he read the ordinance section. He stated that the presence of a kitchenette is in opposition to the ordinance which says the accessory is used for storage.

Trustee Flood asked what size they could build on the property without coming to the Zoning Board. They could build a 30' X 40" structure.

Building Official Goodloe stated they could actually build a little bigger than that. This is a massive building that is being proposed.

Mr. Antuziak expressed concerns about the variance request including information about the stop work order and the extensive work that was done at the property without the proper notification or permitting. The building will have about 1400 square feet of empty space after the RV’s are parked inside. This is larger than the house. The building is oversized and he commented on only one other property on the street that has a building this size. He stated that the proposed pole barn will have a kitchen, septic and is a house. His neighbor has a large pole barn that is 25’ X 36’ that could fit 3 of the petitioner’s RV’s in it. The requested structure is almost three times the size. He stated that he suggested to the petitioner that they move the proposed building closer to the house so it would not block the view and she agreed. Now, it is moved back to the original position. He explained the positioning of the proposed structure and how it would negatively affect him. The petitioners already own the RV’s, where they kept now and is that space no longer available. He suggested that they park them at a storage facility.
Mr. Josh Steelbush stated that the proposed structure seems like more than is needed for storage of RV’s. It seems like it is set up for a multi-family and the size is massive, this is what he is opposed to. His garage is tucked away out of view of the neighbors. The petitioner has every right to build what they want but encouraged them to downsize the structure.

Mr. Richard Wirsu stated that he lives on the other side of the lake and he sees what is going on at the property. He is opposed to the variance request.

Mr. James Swash stated that if this building is for the family to enjoy time at the property, then he is all for it however the structure seems large. When the petitioner was doing construction, they drove on his driveway and cracked it, but fixed it immediately.

No further public comment was heard.

Chairman Durham stated that he was concerned with the size of the structure and several neighbors feel the same way. There are a lot of questions and not many answers and he would have trouble supporting the variance for such a large building tonight. It has the appearance of a lot bigger situation than what is being presented. The Board is here to look at the size and reasoning behind what the petitioner wants to do and he would have a hard time supporting the request.

Board member Walker asked about the Sprinter vans and asked who owned them.

Ms. Chapman stated that she owns the property with her friend, Cindy Israel. They wanted to find a lake property to enjoy. They were looking for a quiet place to kayak and they do camping and traveling in the Sprinter vans. They were looking to store the vans in the proposed building. They are not looking to rent it out or share it with other people other than their family.

Ms. Chapman replied that she owns one of the RV’s. The other is owned by her friend, Cindy Israel. Cindy Israel and she own the property. It is under an LLC, but they are the owners. Ms. Israel has a residence about 25 minutes from the subject property. They do not have an up north cabin.

Board member Dunaskiss asked if the LLC owns other properties.

Ms. Chapman replied no; it was formed to buy this house.

Trustee Flood asked if they would consider decreasing the size of this building.

Ms. Chapman replied that it doesn’t look like people understand what they are trying to do. She would like to keep the size, but would not put in the kitchen. It would be nice to have a bathroom since it is close to the lake, but they also can walk up to the house as well.

Trustee Flood stated that he feels the building is too large to store two vans. He referred to a pole barn that he owns and what he stores in his building.

Ms. Chapman stated that it was more than two vans; it was also kayaks and a UTV.

Trustee Flood stated that a 30’ X 40’ building would be permitted. He is opposed to the request. They do not demonstrate practical difficulty.

Ms. Chapman asked what above the variance would be acceptable.

Chairman Durham explained the meeting options to the petitioner.

Ms. Chapman stated that she would like to be reconsidered.

Chairman Durham stated that it would have to be to a date certain and he explained the possible dates.
Ms. Chapman replied she would like the 27th of June.

Chairman Durham provided suggestions to the petitioner regarding activity at the property for the next few weeks prior to June 27th.

Building Official Goodloe stated that the petitioner has a soil erosion permit to put in the drive to the back of the property so they were okay with moving dirt in and out.

Mr. Chapman stated that they did all the work under permit. They started without a permit but after the notification, they started working with the City to get work permitted.

Trustee Flood moved, supported by Chairman Durham, that in the matter of AB-2022-19, Terri Chapman, 2740 Judah Rd., 09-32-200-029, per the applicant’s request, to postpone this case to June 27, 2022 to reconsider.

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

Kathryn Kennedy stated that if the group formed an LLC for the purchase, shouldn’t this item be reposted correctly to the LLC name.

Chairman Durham stated that this is up to the Planning and Zoning Department.

Cathryn Kennedy stated that this doesn’t allow the public to investigate the parties that are part of the transaction.

Chairman Durham directed Ms. Kennedy to the Planning and Zoning Department.

C. AB-2022-20, Ronald Gentry, 1031 Elm Ave., 09-15-126-003

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned SE
Article V, Section 5.04
1. A 40-ft. front yard setback variance from the required 40-ft. to construct a pole barn 0-ft. from the front property line along Elm Ave.

Article XXVII, 27.02(8) - Lot size over 2.5 acres
2. A 1,000-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to build a 2,400-sq. ft. pole barn.
3. A 2,300-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 2,400-sq. ft. pole barn in addition to an 1,800-sq. ft. attached garage.

Mr. Ron Gentry introduced himself to the Board.

Chairman Durham asked if this was a plotted street with the County.

Mr. Gentry replied yes. He confirmed that his mailbox is on Elm Avenue.

Chairman Durham asked if he would agree that the road runs behind his property.

Mr. Gentry replied that it runs next to his property, behind his property is the lake. The road was made as an access in 1940 but it cannot be used now because of the wetlands.
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – May 23, 2022

Trustee Flood confirmed that the pole barn is 40’ X 60’; that is a horse barn.

Mr. Gentry replied that he is putting his two motor homes in it and his boat and trailer. He confirmed that the property is six acres.

Chairman Durham asked how much of the property is usable.

Mr. Gentry replied that he can use 2 acres of his 6 acres.

Chairman Durham asked how far off the road is the building located.

Mr. Gentry answered about 20 feet but he is not sure. He will be within 20 feet of the access road. The subdivision owns the road access.

Trustee Flood asked if he would consider building smaller.

Mr. Gentry replied he would rather not.

Vice-chairman Cook referred to the application question, “Describe how the practical difficulty has not been self-created” and Mr. Gentry didn’t answer it. There is a reason for the variance.

Mr. Gentry stated he wants it so he can pull the motor homes in the building.

Vice-chairman Cook asked if those were self-created.

Mr. Gentry replied yes.

Vice-chairman Cook stated that this is where the question comes up about going smaller in terms of a compromise.

Mr. Gentry answered that if his back was against the wall, he would think about compromising.

Chairman Durham stated that practical difficulty must be present for the Board to issue a variance and it cannot be self-created.

Mr. Gentry stated that much of the property is going downhill towards the lake and this was not created by him.

Building Official Goodloe stated that there were several answers that were not filled in on the application.

Vice-chairman Cook stated that question #6 was left without an answer and this is where the topography should have been listed.

Mr. Gentry asked if everyone was against the size of the structure.

Chairman Durham stated that he could not support the proposed size. It is too much and he doesn’t like where it is going to be placed even though he doesn’t have a lot of choice.

Vice-chairman Cook stated that the access road belongs to the subdivision. The petitioner is proposed to be very close to this.

Chairman Durham asked for public comment.

Elmer Claycom stated that he has been on Elm for 64 years. He provided history about the road. This is an easement that goes down to the lake. He agrees that the proposed pole barn would be too big. He stated that there are vehicles parked on the property all of the time; the other day there were six RV’s and a boat.
The petitioner uses Marketplace to advertise vehicles and asked if this is going to be a business and will the pole barn be used as part of this business. He would like the subdivision to stay a subdivision.

Kathryn Kennedy asked if the building would be at the property line. If it is a business, it is not appropriate for this area. The size is illogical for the area.

No further public comment was heard.

Chairman Durham asked the petitioner about his concerns.

Mr. Gentry stated that he doesn’t know a time when there were six vehicles. There has never been a for sale sign on his equipment on the property.

Chairman Durham asked if it was one level or two.

Mr. Gentry replied one level.

Board member Walker stated that he understands there is a practical difficulty regarding the topography of the property but the size is too large.

Trustee Flood stated he doesn’t agree with the size.

Chairman Durham explained the options to the petitioner.

Building Official Goodloe commented on the allowable square footage for an accessory building.

Chairman Durham suggested that it come back to the Board on paper with any adjustment amounts. He stated that he understands the need and location, but indicated that the proposed is too large.

Board member Walker stated that the Board doesn’t need more time to review it, he is ready to vote. However, the petitioner may not like the motion offered or the vote. He stated that it is a balancing act between the petitioner, neighbors, and Township.

Building Official Goodloe stated that the first option would give the petitioner a 35 foot variance instead of a 40 foot. A 525 square foot variance above the allowable 1,400 square feet would be the second option to build a 1,925 square foot pole barn. The last one would be 825 square feet variance over the allowed 1,900 square feet to build a 1,925 square feet pole barn.

Vice-chairman Cook stated that they have the size issue and also the easement piece. This would be his secondary concern based on where he saw the stakes and the gravel road.

Mr. Gentry stated that he plans to clear what he needs for the building. He referred to a building that is present on the adjoining property that belongs to the vacant lot.

Vice-chairman Cook stated that he is concerned about the easement based on his visit to the property.

Mr. Gentry stated that he is 20 feet to the access but he is not going to block the access. He pointed out the access location on the plan. He approached the Board table and pointed out the access drive location.

Board members discussed the options presented by the petitioner.

Trustee Flood moved, seconded by Vice-Chairman Cook, in the matter of ZBA Case AB-2022-20, Ronald Gentry, 1031 Elm Ave., 09-15-126-003, to grant the petitioner's request to postpone this case until the June 27, 2022 meeting to bring back more details.
Roll call vote was as follows: Flood, yes; Walker, yes; Cook, yes; Dunaskiss, yes; Durham, yes. Motion passes 5-0.

D. AB-2022-21, Sean Awdish, 3901 S. Lapeer Rd., 09-26-452-017

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153 – Zoned PUD

1. A variance for 5 additional wall signs above the 1 allowed/approved for a total of 6 wall signs totaling 107.39-sq. ft.

Mr. Awdish introduced himself.

Chairman Durham asked if the petitioner is successful with the 6 signs, he will still be below the ordinance amount.

Mr. Awdish stated that he appeared at a prior meeting. One of the wall signs was approved by the PUD approval and is not part of this request. He is requesting 5 additional wall signs but the 5th sign is a welcome sign and he wouldn’t mind removing it. He needs the 4 additional signs because of the unique style of the building and the fact that it is at a major intersection. He explained the various signs requested and their location.

Chairman Durham stated that he understands why the petitioner wants the signs that he does. There is fast traffic approaching that needs to locate the business.

Mr. Awdish explained the design of the signs including white signs with a classic font.

Trustee Flood stated that he went and looked at the Rochester store and he likes the way it looks. The petitioner is allowed 200 square feet of sign. He likes this plan a lot better than what would be allowed. He explained this area being the number one congested area in the Township. He understands that 4 or 5 signs sounds like a lot but this is half the size of what he is allowed.

Mr. Awdish commented that he will not have any window signage at this site.

Trustee Flood stated that he has no problem with the request.

Board member Dunaskiss stated that she likes the design. She stated that this petitioner is looking for additional tenants and asked what type of signage is needed with additional tenants.

Mr. Awdish replied that they will deal with this problem when it occurs.

Board member Dunaskiss asked if a separate food vendor comes in, they are entitled to a separate sign.

Trustee Flood answered yes.

Mr. Awdish offered pictures of his Rochester store and the signage provided at that site.

Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA case AB-2022-21, Sean Awdish, 3901 S. Lapeer Rd., 09-26-452-017, petitioner is seeking 1 variance from Sign Ordinance #153 – Zoned PUD, a variance for 5 additional wall signs above the 1 allowed/approved for a total of 6 wall signs totaling 107.39-sq. ft., be granted because the petitioner did demonstrate the follow standards for variance have been met in this case and that they set forth facts that show:
1. The petitioner does show the following practical difficulty: This is a unique, corner location on a very busy road. Additional signage has the ability to reduce any confusion on the part of drivers trying to access the store.

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 location of the store, the way it is facing and the amount of traffic on this road makes this type of signage necessary. This store is located at the busiest intersection of the Township.

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

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based upon the fact that it would not be injurious.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets in fact it should decrease it by giving people ample notice about where the store is located. There is also not going to be an increase of fire, or endanger public safety, and is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

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

6. PUBLIC COMMENTS
7. COMMUNICATIONS
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
Chairman Durham thanked Trustee Flood for his guidance during the meeting.

Trustee Flood commented on three free events going on in the Township: free shredding event, NO HAZ Collection event and free disposal day on June 11, 2022.

Board member Walker thanked the public for attending the library book sale.

10. ADJOURNMENT
Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 9:13 pm.

Motion Carried

Respectfully submitted,

Erin A. Mattice
Recording Secretary
TO: The Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: June 3, 2022
RE: Case location for 6-13-2022 ZBA Meeting

Below is the location of the ZBA case for the June 13, 2022 Meeting for a Temporary Use Permit for a tent to sell consumer fireworks.

The location is the plaza on Lapeer Road that houses Tubbys, The Smile Studio, etc and is north of Mr. C’s Car Wash, south of Taco Bell.
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: June 2, 2022
SUBJECT: Staff Report for AB-2022-22 XL Fireworks

The petitioner is seeking a Temporary Use Permit to sell consumer fireworks from a tent. I believe the last time we issued a TUP for fireworks in the Township was in 2019. Currently, this is the only application we have (in the past we used to get 3 or 4 applications and each tent was required to be at least a mile apart).

Attached is a copy of the Section of the Ordinance that addresses Temporary Use Permits for an Open Air Business. I have checked their proposed location and lease agreement which meets the specified requirements in the Ordinance.

If the Board’s deliberation is to approve, below is a sample motion:

Moved by ______________, seconded by ____________, that in the matter of ZBA case #AB-______________, that the petitioner’s request for a Temporary Use Permit from Zoning Ordinance No. 78, Article XXX, Section 30.11, F, 1, b: to open and run an Open Air Business, specifically fireworks; be granted, the petitioner would be using the property for a permitted purpose and they have demonstrated that they will be complying with the required conditions for an Open Air Business. Conditions of approval are as follows: that the Ordinance requires that there be no other Open-Air Businesses within one mile, there are none. Applicant will provide phone numbers to the Building Department of contact people that can be reached anytime of day or night; hours of operation (list hours of operation); articles will be secured in a storage POD or something similar after hours; provide the Township with a copy of the liability insurance listing Orion Township as Additional Insured and as the Certificate Holder; and provide the Township with a copy of their Michigan Department of Licensing & Regulatory Affairs Consumer Fireworks license. Fire Department approval will be required prior to opening. The petitioner must provide a $1,000 cash bond for reinspection of the site once the operation has been removed.

Please note any other conditions in the motion, if to approve, that apply such as if the petitioner is going to be using a generator and the hours that it will be running; and note that no overnight stays at the site will be allowed.

Please contact me if you have any questions.
B. **Preliminary Application.** The Enforcement Officer may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; and the Enforcement Officer may, on such preliminary submittal, take the formal action of tentative denial or tentative approval.

C. **Issuance of a Permit.** If the proposed construction, moving, alteration, or change of use set forth in the application is in conformity with the provisions of this Ordinance, the Enforcement Officer shall issue a permit. If an application for such permit is denied, the Enforcement Officer shall state in writing on an appropriate form the reason for denial. The denial form shall be forwarded to the applicant. Issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance.

D. **Valid Period of Permit.** A building permit issued pursuant to the provisions of this Ordinance and/or the Orion Township Building Code shall be good for one (1) year from date of issue. Failure to begin work authorized by the permit within six (6) months from date of issue shall cause the permit to become null and void.

E. **Inspection of Completed Work.** The holder of any building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof shall notify the Orion Township Building Official, or his designated representative, immediately upon completion of the work authorized by such permit for the necessary inspection. This provision includes the final inspection. After receiving a final approved inspection, an application shall be made in writing on forms furnished by the Orion Township Building Department for a Certificate of Occupancy.

F. **Temporary Use Permits.** *(amended 03.09.00, 07.07.03, 02.16.10, 06.04.12, 01.06.14)*

Temporary use permits may be considered by the Township for the following uses:

- Outdoor Display and Sales
- Open Air Business

1. **Initial Application and Procedures for Review**

   a. **Outdoor Display and Sales**

      1) Temporary use permits may be issued administratively by the Planning Department *(amended 03.04.20)* for Outdoor Display and Sales for the marketing of goods or products which do not exceed ten percent (10%) of the principal building area or greater than one thousand (1,000) square feet (whichever is less). This shall exclude Outdoor Display and Sales areas normally allowed as a principal use within the GB zoning district.

      2) Outdoor Display and Sales shall only be conducted on a parcel of land owned or leased by the operators displaying and selling goods. Proof of ownership or lease shall be furnished to the Township upon request.

   b. **Open Air Business**

      1) The Zoning Board of Appeals shall have the authority to review and approve an Open Air Business involving seasonal display of goods such as Christmas trees, pumpkins, fireworks, etc. This shall exclude lumber yards, outdoor garden shops, or other outdoor sales normally allowed within permitted zoning districts.

      2) Temporary use permits may be issued for Open Air Business. The Zoning Board of Appeals shall have the authority to specify conditions, including duration of use and hours of operation, in order to ensure compliance with this Ordinance. Property owners and residents within three hundred (300) feet of the zoning lot on which the proposed Open Air Business is to be located shall be notified at least fifteen (15) days in advance of the meeting at which the application for the temporary use permit will be considered.

*Revised 05/21/20*
Article XXX

Administrative Procedures & Standards

30.11 Permits to Construct, Move, Alter or Change Use

2. Required Conditions for Outdoor Display and Sales or Open Air Business

a. The temporary use for Outdoor Display and Sales or Open Air Business shall not occupy any essential parking spaces or maneuvering lanes associated with an on-site permanent use.

b. To ensure the continued safety of the customers, when located adjacent to a vehicular traffic area, the temporary sales area for Outdoor Display and Sales or Open Air Business shall be fenced or provided with appropriate barriers to ensure pedestrian safety and pedestrian passageway with a minimum of five (5) feet of clearance. Materials shall be displayed no closer than ten (10) feet from building entrance doors.

c. Access for Outdoor Display and Sales or Open Air Business shall be provided via a paved driveway.

d. Dedicated parking areas for Outdoor Display and Sales and Open Air Business shall be provided and shall not extend over sidewalks or safety paths.

e. Due to traffic safety concerns, no temporary sales for either Outdoor Display and Sales and Open Air Business shall be permitted at facilities dispensing flammable products such as vehicle fuels or propane.

f. A sketch plan and floor plan, drawn to scale in a manner acceptable to the Building Department, showing location of the stand or tent, setback from the rights-of-way, distance to nearest building or structure, placement of fire extinguishers, all entrances and exits, storage areas, pedestrian traffic flow, parking areas and vehicular traffic flow, and nature of occupants of nearest buildings shall be provided in the application.

g. Detailed information on the materials and wind load capability of the tent or stand to be erected on the site shall be provided in the application.

h. Detailed information regarding the plan for storage of display items during booth open and closed hours shall be provided in the application.

3. Additional Requirements for Open Air Business

a. All products for an Open Air Business shall be compatible with the permitted uses of the respective zoning district within which the site is located. The Zoning Board of Appeals may deny any application for temporary use if it is found that the proposed use is not consistent with the intent of the Zoning District in which the property is located or is incompatible with the permitted uses allowed within the Zoning Ordinance.

b. Flammable products for such as fireworks shall be stored in accordance with National Fire Protection Association Standards (NFPA 1124, 2006) and as determined by the Fire Chief of the Charter Township of Orion.

c. All signage shall comply with the requirements of the Charter Township of Orion Sign Regulations (Ord. No. 153). As a condition of approval for Open Air Business, the ZBA may impose more restrictive sign regulations than those sign regulations specified in Ordinance No. 153, where traffic safety or impacts to neighboring properties are a concern.

d. The Zoning Board of Appeals shall deny a temporary use permit for Open Air Business if the requested temporary use is located one mile (5,280 ft) of similar Open Air Business use which sells the same or similar product.

e. An Open Air Business shall only be conducted on a parcel of land owned or leased by the operators of the Open Air Business. Proof of ownership or lease shall be furnished to the Township upon request.
Article XXX  Administrative Procedures & Standards

30.11 Permits to Construct, Move, Alter or Change Use

f. An Open Air Business shall only be conducted on the following commercially zoned properties: RB, GB, BIZ or on non-residential institutional sites, such as churches or schools, within residential zoning districts.

The above listed regulations for Open Air Business shall exclude a permitted agribusiness such as farm markets, fruit and vegetable stands as permitted in Section 5.02.

A record of temporary use Open Air Business permits granted by the Zoning Board of Appeals shall be maintained by the Planning Department (amended 05.04.20). Each file shall include at least the following: the original application, the terms of approval of the initial application, and any written complaints received by the Township regarding the use.

The Zoning Board of Appeals shall review the file for the temporary use/Open Air Business prior to a decision on renewal of a permit.

The temporary use/Open Air Business shall not be transferable to another individual, entity or corporation.

The owner of the property on which the temporary use/Open Air Business is requested shall jointly sign the application for temporary use or shall provide written permission for use of the property as a temporary use. The property owner shall jointly be responsible for all property clean up.

The Open Air Business site and associated structures for sales or storage of goods shall not be used as living quarters or as a temporary dwelling.

The Zoning Board of Appeals and or the Planning Department (amended 05.04.20) shall require a performance guarantee in the form of cash or letter of credit to insure compliance with the conditions of a temporary use permit for Open Air Businesses. (amended 08.15.10)

4. Renewal Of Temporary Sales Permits

Once a temporary use permit for Open Air Business has been granted, the use may be reinstated only by way of a new application and review by the Zoning Board of Appeals in accordance with Section 30.11F.

Renewal of Outdoor Display and Sales permits may be issued through the Planning Department (amended 05.04.20).

Section 30.12 – Nonconformities

All nonconforming uses, structures, sites, or lots shall be subject to the provisions set forth in Section 27.01 of this Ordinance.

Section 30.13 – Certificates of Occupancy

A. Scope of Application. No building or addition thereto, constructed after the effective date of this Ordinance, and no addition to a previously existing building shall be occupied, and no vacant land shall be used for any purpose until a Certificate of Occupancy has been issued by the Enforcement Officer. No change in a use shall be made until a Certificate of Occupancy has been issued by the Enforcement Officer. Every Certificate of Occupancy shall state that the use of occupancy complies with the provisions of this Ordinance. Certificates of Occupancy, as required by the Orion Township Building Code, shall also constitute Certificates of Occupancy, as required by this Ordinance.

B. Application. Applications for Certificates of Occupancy shall be submitted to the Enforcement Officer.

C. Issuance of Certificates of Occupancy. Certificates of Occupancy shall be issued, if so requested by the owner, for existing buildings, structures, or parts thereof, or for existing uses of land if, after inspection, it is found that
SAMPLE MOTION FOR
APPROVAL OF AN OPEN AIR BUSINESS PERMIT
ZONING ORDINANCE NO. 78.

In the matter of ZBA case #AB-2022-22, XL Fireworks I would move that the petitioner’s request for an Open-Air Business Permit in accordance with Zoning Ordinance No. 78 be granted based on the following findings of facts:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

and must comply with the following conditions (dates of operation, hours of operation, that proper insurance is provided, a security bond must be provided of $1,000, whether or not a POD be required, etc.):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

20
SAMPLE MOTION FOR
DENIAL OR POSTPONEMENT
OF AN OPEN-AIR BUSINESS PERMIT
ZONING ORDINANCE NO. 78

In the matter of ZBA case #AB-2022-22, XL Fireworks, I would move that the petitioner’s request for an Open-Air Business Permit in accordance with Zoning Ordinance No. 78 be denied/postponed based on the following findings of facts:

if postponed:
the petitioner has requested to come back to a date certain of __________________________
Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: (248) 391-0304 ext. 5001; Fax: (248) 391-1454

Charter Township of Orion Zoning Board of Appeals
Application for Open Air Business Permit

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $500.00 for a temporary use permit 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 petitioner 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. If the applicant is not the property owner, then written authorization from the property owner must be included.

Name of Open Air Business: XL Fireworks, LLC

APPLICANT
Name: Dolores Guy
Business Name: XL Fireworks, LLC
Address: 13332 Chippewa Dr
City/State/Zip: Warren, MI 48088
Phone: ____________________ Cell: 586-524-9194 Fax: 586-264-3326
Email: jaynadeeguy@aol.com

PROPERTY OWNER(S)
Name(s): Marshall Dasso
Address: 201 S Lapeer Rd
City/State/Zip: Lake Orion Mi 48362
Phone: 248-421-0711 Cell: 248-421-0711 Fax: ____________________
Email: dasso.corp@gmail.com

CONTACT PERSON FOR THIS REQUEST
Name: Jeff Guy
Phone: 586-524-9448 Fax: 586-264-3326
Email: jaynadeeguy@aol.com

SUBJECT PROPERTY
Address: 100 S. Lapeer Rd Orion Township, Mi 48362
Sidewell Number: 07-11-428-011 Total Acres: ____________________
Length of Ownership by Current Property Owner: 27 Years, 1 Months
Is the driveway paved? Yes

Case #: AB - 2022-22
Meeting Date: 6/19/2022
OPEN AIR BUSINESS

1. What is the nature of this request? To put up a tent, to sell Fireworks

2. The business will operate from: 6/20/22 to: 7/5/22

3. The business hours will be: 10:00 AM - 10:00 PM

4. The products are not compatible with the permitted uses of the respective zoning district in which the site is located, explain:
The products are compatible.

5. What are the plans for the storage of display items during both open and closed hours? Trailer.

6. Indicate the size of any tents or canopies will be added to the site: Tent 20x40

7. Will restroom facilities be available? No

8. How will electrical equipment/lighting be powered? Generator.

9. The temporary use permit will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township:

10. Explain why the need for said variance(s) were not self-created:
Section 30.11 E.1.b. under ZBA

11. Do you own or have control over any properties adjoining the site you are requesting a variance(s) on? No

12. Have you ever applied for a variance on this property? If so, when? No. This area was previously approved for the selling of fireworks in previous years.
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, 30.09, 30.10, and 30.11 of the Zoning Ordinance. In support of this request the above facts are provided.

Signature of Applicant: __________________________ Date: __________________________

Signature of Property Owner: __________________________ Date: 4-27-2022

Must be original ink signatures

OFFICE USE ONLY

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

Distance to a similar Open-Air Business: __________________________

Date Filed: __________________________ Fee Paid: __________________________ Receipt Number: __________________________
Attached are the 1st two items that you requested. The tent will be anchored down with tent stakes and straps to asphalt. Please let me know if you have any additional questions.

Thank you.

-----Original Message-----
From: Lynn Harrison <lharrison@oriontownship.org>
To: jayndeeguy@aol.com <jayndeeguy@aol.com>
Sent: Tue, May 3, 2022 12:52 pm
Subject: Orion Township Temporary Use Permit for the sale of Fireworks

Thank you so much for the thoroughness of your application. I have attached a copy of your receipt and a copy of the Ordinance Section that pertains to Open Air Businesses.

There are a couple additional things I’m hoping you can provide:

- Will the tent be fenced or barricaded – if so, can you add that to your plans and email that to me.
- Also, the Ordinance asks for detailed information on the tent – can you provide that?

Just some additional information I wanted you to be aware of so you will be ready to go after the ZBA hearing:

- When the permit is issued, you will need to provide a check for $1,000 which will be held in escrow and returned once the tent is removed and the location restored to its original condition
- We will need a copy of your liability insurance noting the Township as an Additional Insured and the Township included as a Certificate holder
- We will need a copy of your License
- We will need the name and number of an onsite contact
- And, any conditions complied with that the ZBA may impose as part of the permit approval

I will contact you again next week with the language I propose for the public hearing notice that will go in the local paper and sent to everyone within 300-ft. of the property.

Lynn Harrison
Specialist
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5001
W: www.oriontownship.org
Certificate of Flame Resistance

Date Manufactured
5/31/2016

AZTEC TENTS
2665 COLUMBIA ST
Torrance, CA 90503
(800) 228-3987

Invoice Number: 0218170-IN
Customer P.O.: 
Customer Number: GREATL4

This is to certify that the materials described below have been flame retardant treated (or are inherently flame retardant).

Great Lakes Tent
23425 Vandyke Ave
Warren, MI 48089

Certification is hereby made that the articles described below hereof are made from a flame-retardant fabric or material registered and approved by the California State Fire Marshal for such use. The fabric has been tested and passes NFPA 701 Large Scale. See chart to right for trade name of flame-resistant fabric or material used and additionally referenced on the label of the fabric panel.

THE FLAME RETARDANT PROCESS USED WILL NOT BE REMOVED BY WASHING

David Bradley
Name of Applicator or Production Superintendent

General Manager- Manufacturing
Title of Applicator or Production Superintendent

<table>
<thead>
<tr>
<th>ITEM CODE</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT</th>
<th>ORDERED</th>
<th>PRODUCED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Z21620CE2002</td>
<td>#20x10 End Std Top Only UW ATC Style Clasp - Blockout White #Clasp Female End only</td>
<td>EACH</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Z21620CM1002</td>
<td>20x10 Std Middle Top Only UW ATC Style Clasp - Blockout White</td>
<td>EACH</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>