

**CHARTER TOWNSHIP OF ORION
ZONING BOARD OF APPEALS AGENDA
MONDAY, AUGUST 8, 2022 - 7:00 PM
ORION TOWNSHIP MUNICIPAL COMPLEX BOARD ROOM
2323 JOSLYN ROAD
LAKE ORION, MI 48360**

1. OPEN MEETING

2. ROLL CALL

3. MINUTES

A. 07/25/2022, ZBA Meeting Minutes

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4. AGENDA REVIEW AND APPROVAL

5. ZBA BUSINESS

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A. AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023

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The petitioner is seeking 4 variances from Zoning Ordinance #78 – Zoned R-2 Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

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

Section XXVII, Section 27.17(B)

4. A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland.

B. AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024

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

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

C. AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013.

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The petitioner is seeking 3 variance from Zoning Ordinance #78 - Zoned R-2 Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)

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

D. AB-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012

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

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

from the property line along Waldon Rd.

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

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

E. **AB-2022-33, Catherine Baker, 2933 Walmsley Circle Dr., 09-20-381-004**

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

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

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

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

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.

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

******* MINUTES *******

REGULAR MEETING – MONDAY, July 25, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, July 25, 2022, 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

ZBA MEMBERS ABSENT:

CONSULTANT PRESENT:

David Goodloe, Building Official

OTHERS PRESENT:

Georgette Dib	John Tront	Alfred Vuktilaj
Phyllis Sleight	Bill Schmitz	Monica Carter

1. OPEN MEETING

Chairman Durham called the meeting to order at 7:00 pm.

2. ROLL CALL

3. MINUTES

A. 06-27-22, ZBA Regular Meeting Minutes

Trustee Flood moved, seconded by Chairman Durham, to approve the 06-27-2022 minutes as amended changing: Item 3, paragraph 3, change “size” to “siding”; Item 3, paragraph 4, change “was he” to “would he be”; page 4, last line, change “July 27, 2022” to “July 25, 2022”.

Motion carried.

4. AGENDA REVIEW AND APPROVAL.

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

Motion carried.

5. ZBA BUSINESS

A. AB-2022-25, Armando Vuktilaj, 2005 Bald Mountain Rd., 09-24-100-007

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 5 variances from Zoning Ordinance #78 – Zoned R-1
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

1. A 40-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 0-ft. from the road right-of-way line along Bald Mountain Road (west).
2. A 37-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 3-ft. from the front property line along Starlight Trl (north).
3. A 37-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 3-ft. from the front property line along Starlight Trl (east).
4. A 7-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 3-ft. from the side property line (south).

Article XXVII, Section 27.03(G)(2)

5. Corner clearance requirement variances to erect a 6-ft. fence at the intersection of a driveway and a road right-of-way (north & south).

Mr. Alfred Vuktilaj introduced himself and summarized the variance request.

Chairman Durham stated that this property was part of a variance request in the past.

Board member Dunaskiss asked why a 4-foot fence would not work.

Mr. Vuktilaj stated that it is not tall enough to keep his kids safe. The high school is very close, and he pointed out the reckless and fast driving that occurs in this area. He wants the 6-foot fence to provide safety and privacy.

Board member Dunaskiss asked the petitioner about the wildlife mentioned in his application.

Mr. Vuktilaj answered he has no concerns about wildlife.

Mr. Vuktilaj provided photos to the Board members.

Vice-chairman Cook stated that he doesn't know where the confusion occurred about getting the permit before starting. The petitioner knew he could put up a 4-foot fence without a permit.

Mr. Vuktilaj stated that he found out a 4-foot fence was allowed when the inspector visited his property and told him. The inspector told him that a 6-foot required a permit.

Vice-chairman Cook stated that usually, an approved fence is a different style of fencing than what is being put up currently. In looking at the layout, there might be a way to compromise what the applicant wants as opposed to what is being asked for.

Chairman Durham asked if the applicant hired a professional fence installer for this fence.

Mr. Vuktilaj replied he hired a local guy.

Chairman Durham asked how much is finished.

Mr. Vuktilaj replied it is half done. He asked his neighbors first and no one complained. One neighbor came to him and said she didn't want the fence there because of the view so he did not put something on her side.

Trustee Flood stated that the applicant is allowed to put up a 6-foot fence as long as it conforms to the setback requirement. The applicant is asking for setback requirements that everyone else has to conform to. The applicant is asking the Board to waive the setback requirements. He provided details about the past actions of the Board regarding fencing. He summarized the ordinance fencing requirements. This

request is out of line with the Township requirements and the request that is being asked for is exactly what the Township is trying to avoid. The Board has to abide by the ordinance, and he is not in favor of the request.

Mr. Vuktilaj stated that if he moves the fence to the setback lines, he will have no property left and he explained.

Trustee Flood stated that the applicant has additional front yards, and this must be addressed in the ordinance. He is not happy that this has not been addressed by the Township. He pointed out a 6-foot fence that is part of the Roundtree Subdivision and it meets ordinance.

Board member Walker asked when the applicant bought the property.

Mr. Vuktilaj replied 3 months ago. He reiterated his safety concerns regarding his children.

Board member Walker asked if the school and the neighbors were there when he purchased the house.

Mr. Vuktilaj replied yes.

Board member Walker reiterated that the applicant could put up a 4-foot fence.

Mr. Vuktilaj replied that he knows that.

Board member Walker stated that he doesn't see a practical difficulty.

Mr. Vuktilaj reiterated his safety concerns regarding his children and a 4-foot fence.

Chairman Durham asked for public comment.

Ms. Phyllis Sleight stated that she doesn't know why the applicant has a concern with his children playing in the yard. The neighbor of the applicant has small children, and they play in the yard. Sometimes the neighbors play in the yard, and she doesn't mind. The fence that is being put up is an eyesore and she does not approve of it. She told him this before he put it up and she commented that a 4-foot fence would be sufficient.

Mr. John Stein stated that when he moved in, in December 2020, there was already a 6-foot privacy fence between the neighbor's house and his house. There is no sight line issue and visually, he does not have a problem with the request. The applicant took the old fence down and put up the new fence to replace it.

No further public comment was heard.

Chairman Durham commented that he doesn't care for the compound look of the fence being installed by the applicant. He also has a problem with the variance request at the corner because of corner clearance and thinks that this would be a mistake. He described the options for the applicant.

Board member Dunaskiss stated that the neighborhood is a place where the children grow up knowing what it means to live in a neighborhood and she described aspects of this including respecting neighbors, etc. The fencing to keep the children in the yard is a reasonable request but can be accomplished with a 4-foot fence. Even 6-foot fences have gates and if a child wanted to, he or she can exit using the gate. Since the applicant moved into a neighborhood, he needs to respect the idea of the neighborhood and accept the fencing that is allowed. This case does not present an unusual circumstance.

Trustee Flood asked Building Official Goodloe if the applicant's request is denied, does it mean the fence would need to be removed?

Building Official Goodloe replied yes or cut it down to 4 feet.

Chairman Durham asked the applicant how he would like to proceed.

Mr. Vuktilaj asked if the request is not granted, can he plant trees inside the 4-foot fence to create privacy?

Board member Walker answered yes. He asked the Board members about the corner clearance request.

Chairman Durham asked the applicant if he had spoken to the Fire Department regarding the request.

Mr. Vuktilaj replied that they did not have a problem with it.

Trustee Flood stated that he read in the Fire Department report that they were concerned with the gate and having access to the property.

Mr. Vuktilaj replied that he was going to install a gate that was pushed in and out so it would be easy.

Building Official Goodloe provided details regarding the corner clearance.

Chairman Durham asked if the request was based on the applicant's drawings or an inspection.

Building Official Goodloe answered that it was based on the applicant's drawings and information provided to the Planning Department. He showed the applicant the corner clearance request that is being asked for.

Board member Walker stated that if the applicant postponed it and figured it out and agreed to cut down the fence to four feet, he would not have to come back.

Vice-chairman Cook stated that there would still be confusion on the corner clearance. If the Board votes on it now, it is a yes or no. If it is postponed, then the applicant can meet with the Building Official and they can decide about the corner clearance.

Chairman Durham explained the applicant's options to him. He stated that they could postpone until August 22, 2022.

Trustee Flood stated that if it is postponed, it does not have to be re-advertised and re-noticed.

Board member Dunaskiss moved, and Trustee Flood supported, in Case # AB-2022-25, Armando Vuktilaj, 2005 Bald Mountain Rd., 09-24-100-007, that the petitioner's request for five variances be postponed at the request of the applicant until August 22, 2022.

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

B. AB-2022-27, J.S. Brown Road, LLC (Mattress Firm Wall & Ground Sign), 851 Brown Rd., 09-33-351-036

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 2 variances from Sign Ordinance 153 – Zoned BIZ

1. A variance for 1 additional wall sign above the 1 allowed for a total of 2 wall signs totaling 117.26-sq. ft.

2. A 12-ft. road right-of-way setback variance from the required 30-ft. for a ground sign to be 18-ft. from the road right-of-way.

and, 1 variance from Zoning Ordinance #78; Zoned BIZ

3. A 22-ft. front yard setback variance from the required 40-ft. for a ground sign to be 18-ft. from the front property line (Brown Road).

Mr. Bill Schmitz, representing J.S. Brown Road and Mattress Firm, introduced himself to the Board.

Chairman Durham asked if Mattress Firm was a franchise.

Mr. Schmitz replied yes, it is a corporate sign set up.

Chairman Durham described the property as a small parking lot, a building that sits, back and a narrow driveway.

Mr. Schmitz concurred.

Trustee Flood stated that the east side faces Joslyn Road. The applicant is asking for an additional sign to be on the building facing Brown Road to the south. Someone traveling on Brown Road will not see the sign. The Planning Commission made the applicant put a berm in front of the property and this is why the monument has to be moved. He commented that the applicant would need to stay behind the safety path.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, and Board member Walker supported, in the matter of AB-2022-27, J.S. Brown Road, LLC (Mattress Firm Wall & Ground Sign), 851 Brown Rd., 09-33-351-036 in which the petitioner is seeking 2 variances from Sign Ordinance 153 – Zoned BIZ: 1. A variance for 1 additional wall sign above the 1 allowed for a total of 2 wall signs totaling 117.26-sq. ft., 2. A 12-ft. road right-of-way setback variance from the required 30-ft. for a ground sign to be 18-ft. from the road right-of-way and, 1 variance from Zoning Ordinance #78; Zoned BIZ for a 22-ft. front yard setback variance from the required 40-ft. for a ground sign to be 18-ft. from the front property line (Brown Road).be granted 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: the applicant needs the signage facing Brown Road so he can have vision not only from Joslyn Road on this busy corridor which makes common sense and since the ordinance is restricted to one, the applicant has to come before the Zoning Board of Appeals to get this permission. Another practical difficulty is that a berm was required to be installed and the applicant has to move the monument sign out to where it can be seen along the busy corridor. It will not impede line of sight and will still be in line with most of the signage along Brown Road and it will be behind the safety path.

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 applicant is having the same problems as other facilities that have been built in this area in getting their signage closer to the road to be seen and also have signage on the building to be seen.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity: the applicant needs the same variance granted as other businesses that have been granted variances along that corridor.

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: in fact, this will be very helpful for people to find this location, especially going west to east along Joslyn Road. This signage in this area is needed.

5. The granting of this variance will not impair an adequate supply of light or air to the adjacent properties, it would not unusually increase congestion on the public streets, in fact, it will assist the congestion in this area. 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, in fact, it may raise them, 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: Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham, yes. Motion carried 5-0.

C. AB-2022-28, Georgette Dib, 563 Oakland St., 09-11-316-023

Chairman Durham read the petitioners request as follows:

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

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

Ms. Georgette Dib and Mr. John Tront introduced themselves. Ms. Georgette Dib summarized the variance request for a 6-foot fence on the property line because the neighbors' dogs go over the current fence.

Chairman Durham asked if the neighbors try to control their dogs.

Ms. Dib replied sometimes. She has seen both of the dogs jump over the fence.

Chairman Durham asked if animal control has been involved.

Ms. Dib replied yes, and she did submit the report.

Trustee Flood asked who owns the fence on the south side.

Ms. Dib replied two neighbors. This fence runs all along the rear yard. She stated that she wants the fence on the side.

Trustee Flood asked about the string and stakes that are out on the property.

Ms. Dib stated that they are locating the fence in front of the air conditioner. She confirmed that the utilities would also be on the outside of the fence.

Mr. Tront confirmed that the utilities could be serviced.

Ms. Dib confirmed that the neighbors have a fence on the property's west side; it is a 6-foot fence.

Board member Dunaskiss asked about the fence on the neighbor's property that has the dogs.

Ms. Dib answered that the neighbors have a chain link fence all of the way around their property.

Board member Dunaskiss asked what the recommendation was from animal control.

Ms. Dib stated that animal control went to the house, and nobody answered, and they left a note on the neighbor's door. When she requested a copy of the report, she recalled the report details.

Trustee Flood asked what would keep the dog from jumping the fence and coming around the fence and going through the gap.

Ms. Dib stated that they also want the 6-foot fence for privacy because the neighbors are combative when they are out in their yard. They have had the police called because of leaves. The trees and leaves that are the problem are not even in their yard. The utility pole is on the neighbor's property. If they can put the fence on the property line, they would avoid ever going to that side of the fence.

Trustee Flood asked about the house building.

Mr. Tront provided details about the house construction.

Board member Dunaskiss stated that her concern with the 6-foot fence is the stockade look. The dog is still a problem for the neighborhood.

Ms. Dib described the topography of the property which allows the dogs to easily jump the fence on their side.

Chairman Durham asked if the neighbors that they have a problem with have issues with other neighbors.

Ms. Dib replied she does not know.

Mr. Tront and Ms. Dib explained the issues with the neighbors.

Board member Dunaskiss asked if the neighboring house was a rental property.

Ms. Dib replied yes.

Board member Dunaskiss asked if the property owner was aware of the problem with the dogs.

Ms. Dib answered that she did not know.

Chairman Durham asked if they were keeping paper copies of animal control documents.

Ms. Dib replied yes.

Chairman Durham stated that there is a need that will solve the petitioner's issues but wonders if this solves all of the issues.

Ms. Dib commented on privacy issues with the neighbors.

Vice-chairman Cook stated that his concern is the existing 4-foot fence now becomes a step to clear the new 6-foot fence and they would still get into the yard. Also, the dog jumping the fence and coming around the side also points out that it may solve the petitioner's problem but doesn't solve the problem for the neighborhood.

Ms. Dib stated that she knows it is an issue for the neighborhood.

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Vice-chairman Cook reiterated that eventually, they will figure out how to jump the fence. He asked about the date of the report.

Ms. Dib answered that they do not hang out outside anymore. They have avoided the confrontation.

Chairman Durham asked if untrained dogs were more sight jumpers.

Vice-chairman Cook stated that they will start to bark more, and they will go back to their old habits of clearing the 4-foot fence.

Board member Walker asked if animal control keeps records on these dogs.

Ms. Dib answered when she called, she could only get the report of when she called.

Chairman Durham asked for public comment.

Ms. Monica Carter stated that she is the neighbor with the dogs. She does not have a problem with the fence. She has a problem with how far back they want to put the fence onto their property. According to the survey, there will be a 4-foot gap between the current fence which has numerous holes in it. She is concerned that her grandson will get caught between the fences. Her fence is on the property line according to the survey. The stakes that they have are 4 feet from the property line. She provided pictures to the Board members and explained them.

Chairman Durham asked if she still has the dog that has been talked about.

Ms. Carter replied that it is her daughter's dog. The dog is now 9 years old and no longer jumps the fence. There is another dog on another street that looks like this dog that is roaming the neighborhood.

Ms. Allison Carter confirmed that this other dog roams the neighborhood.

Chairman Durham stated that it is a potential lawsuit every time the dog gets out; he asked Ms. Carter if she was aware of this.

Ms. Carter replied yes; most of the time the dogs are in the house. They use shock collars for the dogs. They confirmed the presence of another dog.

Ms. Allison Carter stated that her dog is a pit bull mix dog, and she doesn't jump the fence.

Ms. Carter confirmed the poor nature of the existing fence. She owns the home and has lived there for 19 years. She provided details about the history of the inhabitants of the house next door. Mr. Tront has owned the home for 7 years with no yard and now they want to put up a privacy fence on the property line, but it is not. She has a concern with security.

Chairman Durham commented that he doesn't know why someone would give away 4 feet of their property.

Ms. Carter replied that there are two trees that the petitioner has to cut down.

Board member Dunaskiss asked how many reports have been made on the dog.

Ms. Carter replied only the ones that have been made by the neighbors. She described issues that they have had with the neighbors.

Vice-chairman Cook stated that there is a utility pole there.

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Ms. Carter replied that there is enough room between the utility pole and the fence that is currently there for the privacy fence, and she explained.

Vice-chairman Cook asked who owns the fence that Ms. Carter is complaining about having holes.

Ms. Carter replied that she doesn't know. It was there when she moved in.

Vice-chairman Cook asked if they ever had a conversation about planting arborvitae.

Ms. Carter replied no, and she would not have a problem with plantings.

Board member Walker commented on the complexities of this case. This appears to be more of a neighborhood issue rather than a fence issue and suggested that arborvitae might be a solution.

Board member Dunaskiss stated that the petitioner is asking to put the fence on the property line, but Ms. Carter says it is not on the property line.

Ms. Carter confirmed the survey that she has.

Building Official Goodloe stated that much of this is irrelevant. They are looking to see if there is a practical difficulty to build a fence.

Trustee Flood stated that the request is to put the fence on the property line but now there is a dispute about the property line's location. He does not want to grant a variance that is not correct.

Building Official Goodloe stated that the location of the property line needs to be solved in civil court. They are just determining if it can be located on the property line.

Trustee Flood stated that this is why they might want to require a survey. They do not want to see a 4-foot fence next to a 6-foot fence. He doesn't think that this is fair to keep addressing this.

Ms. Carter stated that she doesn't have a problem with it being on the property line because then she can take the broken one down.

Chairman Durham asked Mr. Tront if he got a survey.

Mr. Tront replied that he does not have a \$2,000 survey.

Ms. Dib stated that Monica Carter does not live at the property; she may own it, but her daughter lives there.

Chairman Durham confirmed that the Property Gateway aerial does not clearly define property lines. If Ms. Dib doesn't have a survey, how does she know where the property line is?

Ms. Dib replied that they are going off what they were given by the Township.

Chairman Durham replied that until she has paper in her hand that clearly shows where her property boundaries are, they cannot discuss it.

Ms. Dib commented that she does not need a permit to plant arborvitae.

Building Goodloe answered that this is correct.

Ms. Dib asked how she knows where the property line is for planting if she doesn't go and get a survey done.

Chairman Durham asked that he doesn't know how she would know.

Ms. Dib asked if she would have to take a fence down if it was found to be on her property. The neighbors on the other side did this and she is fine with it.

Trustee Flood clarified that the GIS aerial is not a legal document. They need to get a survey to prove it. This is just a satellite view and is just an estimate.

Chairman Durham asked the Board members if they were satisfied with the documents in front of them.

Board members discussed the variance request and the documentation provided.

Trustee Walker asked if the arborvitae would take the place of the fence.

Petitioner answered no.

Board member Dunaskiss asked if they wanted the arborvitae and the fence.

Petitioner replied that she wants both and they explained.

Building Official Goodloe commented that you cannot park an RV in a side yard setback.

Chairman Durham commented on the fact that they do not know where the property line is.

Building Official Goodloe reviewed the measurements with the petitioner and provided them with approximate dimensions that they can use. He suggested that they could also find the metal stakes to know for sure.

Chairman Durham suggested that they postpone the case until exact information is received.

Vice-chairman Cook stated that the petitioner came up with different solutions including arborvitae.

Ms. Dib replied that they would still have the issues.

Vice-chairman Cook stated that there is still a vote that needs to take place for a 6-foot fence even if they find the stakes.

Petitioner asked for a postponement until August 22, 2022.

Trustee Flood stated that he will support postponement. If the petitioner finds that their neighbors are correct, and it is the property line where the cyclone fence is located, he likes the idea of removing the fence and not having a fence next to a fence. He hopes that the neighbors can work together. The Township has to take control of the problem. He suggested that they have a legal agreement as to who will take care of the fence and who will maintain it. The only way to make a record of it is to put it on the deed.

Ms. Carter reiterated that she does not have a problem with the fence. She does not know if there are going to be stakes to locate the property line. She stated that having two fences will look ridiculous and asked who was going to maintain arborvitae.

Chairman Durham stated that the neighbor always has remedies outside of this room and that would be through the court system.

Board member Dunaskiss moved, and Trustee Flood supported, in the matter of Case AB-2022-28, Georgette Dib, 563 Oakland St., 09-11-316-023 that the petitioner's request for variances from

Zoning Ordinance #78 – Zoned R-3 be postponed until August 22, 2022, at the request of the applicant.

**Roll Call Vote was as follows: Walker, yes; Durham, yes; Flood, yes; Cook, yes; Durham, yes.
Motion carried 5-0.**

D. AB-2022-26, Proposed Amended ZBA By-Laws

Trustee Flood commented on an edit that needed to be made.

Trustee Flood moved, and Chairman Durham supported, to adopt the amended ZBA By-Laws that were adopted May 16, 2022, and amended per the date drafted June 15, 2022, and forward to the Township Board for approval.

**Roll Call Vote was as follows: Dunaskiss, yes; Cook, yes; Flood, yes; Walker, yes; Durham, yes.
Motion carried 5-0.**

6. PUBLIC COMMENTS

7. COMMUNICATIONS

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

Chairman Durham stated that he appreciated the Board's support.

Trustee Flood stated that he will put the fencing ordinance on an upcoming Township Board meeting's agenda so they can work toward a resolution.

Board members and Building Official Goodloe commented on the fence ordinance.

10. ADJOURNMENT

**Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 8:54 pm.
Motion carried.**

Respectfully submitted,

Erin A. Mattice
Recording Secretary



Charter Township of Orion

Planning Division

2323 Joslyn Rd., Lake Orion MI 48360

P: (248) 391-0304 ext. 5001; Fax (248) 391-1454

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 29, 2022

SUBJECT: Staff Report for AB-2022-29, AB-2022-30, AB-2022-31,
AB-2022-32 & AB-2022-33

All these cases are seeking setback variances to put a 6-ft. fence on their property lines along Waldon Road in the Keatington subdivision. Attached is a plot plan showing the locations.

Even though the fence will be in the rear of the house, it has to maintain a front yard setback as they front on two roads – Saturn Drive or Walmsley Circle and Waldon Road. That setback is 35-ft. from the property line along Waldon Road and because the fence will be ending at the east and west side property lines, they need to ask for a 10-ft. setback variance to end at that side property lines. To clarify - they are not asking for the fence to run along those side property lines – just to end at them.

All these cases are seeking the same variances except the two explained below:

AB-2022-29, Theodore & Christi Adams, 2922 Saturn Drive – as you see on their plot plan, their property runs along Voorheis Lake and therefore also has to meet a wetland setback of 25-ft.

AB-2022-31, Ken Backus, 2911 Walmsley Circle – has an irregular shaped property and we determined that the east property line is actually a rear property line that curves to the property line along Waldon Road.

As with the case heard earlier this year (AB-2022-01, 2957 Walmsley Circle), there is a 6-ft. easement that runs along the Waldon Road Property lines of AB-2022-31, AB-2022-32 & AB-2022-33. Per the recorded Declaration of Restrictions for Keatington Subdivision – line fences are allowed in public utility easements as long as approved by the Architectural Control Committee.

If you determine that variances should be granted for any of these requests, please make them separately and consider adding a condition that the fence is to end at the east and west property lines, or rear in the case of AB-2022-31, so that the homeowner cannot run the 6-ft. fence along those property lines.

Please let me know if you have any questions.



Outlined in red are the properties on this Agenda seeking variances for 6-ft fences.

2922 Saturn
2936 Saturn
2911 Walmsley Circle
2917 Walmsley Circle
2933 Walmsley Circle

Approved in January 2022



Charter Township of Orion

Planning & Zoning Department

2323 Joslyn Rd., Lake Orion MI 48360

P: (248) 391-0304 ext. 5001

MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022

RE: AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023.

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

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

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

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

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

SAMPLE MOTION FOR
APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023**, I move that the petitioner's request for:

4 variances from Zoning Ordinance 78 – Zoned R-2

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

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

Section XXVII, Section 27.17(B)

4. A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland.

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

Please be specific how the petitioner meets these criteria

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

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

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

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

Further, based on the following findings of facts, the granting of this variance would not:

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

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

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

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

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

SAMPLE MOTION FOR
DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023**, I move that the petitioner's request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
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Section XXVII, Section 27.17(B)

4. A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

Further, based on the following findings of facts, the granting of this variance would:

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

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Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: 248-391-0304 ext. 5001

RECEIVED

JUN 24 2022

Orion Township
Planning & Zoning

Case # AB-2022-29

Meeting Date: 8/8/2022

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: Theodore & Christi Adams

Address: 2922 Saturn Dr. City/State/Zip: Lake Orion, MI 48360

Phone: _____ Cell: 248.789.5930 Fax: _____

Email: adamzta@gmail.com

PROPERTY OWNER(S)

Name (s): Theodore & Christi Adams

Address: 2922 Saturn Dr. City/State/Zip: Lake Orion, MI 48360

Phone: _____ Cell: 248.789.5930 / 248.866.9280 Fax: _____

Email: adamzta@gmail.com / cladamz1970@gmail.com

CONTACT PERSON FOR THIS REQUEST

Name: Theodore Adams Phone: 248.789.5930 Email: adamzta@gmail.com

SUBJECT PROPERTY

Address: 2922 Saturn Dr., Lake Orion, MI 48360 Sidwell Number: 09-20-453-023

Total Acreage: .35 Acres Length of Ownership by Current Property Owner: 9 Years, 11 Months

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

Zoning Ordinance variance for fence to be 0 feet
Allowance/Requirement from rear property line Deviation requested 10 feet

Case #: _____

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. _____

We would like to install a 6' shadow box fence along the back of the property line only (NOT along the sides). 4-foot fences are already approved by the Township & the KHA.

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. _____

Our security, visual, & privacy as well as the noise level from the increased pedestrian & vehicle traffic resulting from township growth has severely diminished our safety and the quality of life while in our backyard. The road & traffic sit much higher than our backyard. Kids trespass in our yard & onto our beach/water. Adults trespass through to icefish, and also fish from our shorelines.

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

As mentioned above, it will improve our "health, safety, and well being" and in no way will an additional 2' be detrimental to the surrounding properties or improvements in the neighborhood or township. The exact same fence will be installed by the same fence company as Baldwin. This will also protect kids from a potential water hazard.

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

This request is a result of the ongoing changes we are seeing along Waldon Road in a relatively short period of time. Our fence will be consistent with those already installed on Baldwin Road in Keatington.

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

The "difficulty" is in no way the cause of something we did or didn't do. It is a result of the growth on Waldon Rd. and the development in the surrounding areas, as well as the ever increasing use of the path. This is based on the natural local environment as it relates to our property's location to the lake; & increased traffic as the area has matured since the property was acquired by us.

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

The location of the lake prohibits moving a portion of the fence off of our property line.

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. _____

Our "Quality Of Life" and safety is compromised by the constant noise, the visual disturbance and security concerns. We cannot comfortably enjoy our backyard. There is no barrier that prevents anyone from trespassing from the path & entering our yard or water. This would also help to minimize the amount of traffic noise we hear while trying to enjoy our backyard. A 6' fence is a better deterrent to climbing & theft.

Case #: _____

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

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

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

Signature of Applicant:
(must be original ink signature)



Date: 06/07/2022

Print Name: Ted & Christi Adams

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



Date: 06/07/2022

Print Name: Ted & Christi Adams

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: _____

2922 Saturn Drive



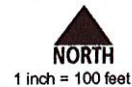
Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.



OAKLAND
COUNTY MICHIGAN
Economic Development & Community Affairs

David Coulter
Oakland County Executive

Date Created: 6/2/2022



27.05 Landscaping, Fences and Walls

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

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

2. **Construction and Design.** Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.
3. **Site Plan.** Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

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

1. **Lot Enclosures.** Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.
2. **Privacy or Decorative Fences and Walls.** Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.
3. **Corner Clearance.** No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.
4. **Large Lots Excluded.** Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.
5. **Fences Enclosing Public Areas.** Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.
6. **Wall Specifications.** Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.
7. **Fence Specifications.** Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.
8. **Barbed Wire Prohibited.** Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.

27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses**A. Accessory Buildings, Structures and Uses. (amended 02.17.04)**

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.
2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.
3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.
4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)
5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

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

27.17 Wetland Setbacks**Section 27.17 – Wetland Setbacks** *(added 09.17.07)*

- A. It is the intent of this section to require a minimum setback from wetlands (or natural features), and to regulate property within such setback in order to prevent physical harm, impairment and/or destruction of or to a natural feature or the surrounding area. It has been determined that, in the absence of such a minimum setback, intrusions in or onto natural features would occur, resulting in harm, impairment and/or destruction of natural features contrary to the public health, safety and general welfare. This regulation is based on the police power, for the protection of the public health, safety and welfare, including the authority granted in the zoning enabling act. It is further the purpose of this section to establish and preserve minimum setback from wetlands (or natural features) in order to recognize and make provision for the special relationship, interrelationship and interdependency between the natural feature and the setback area in terms of: spatial relationship, interdependency in terms of physical location, plant and animal species, over land and subsurface hydrology, water table, water quality, and erosion of sediment deposition.

It is further the purpose of this section to provide for protection, preservation, proper maintenance and use of areas surrounding wetlands (or natural features) in order to minimize disturbance to the area and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat. A setback shall be maintained in relation to all areas defined in this chapter, unless, and to the extent, it is determined to be in the public interest not to maintain such setback.

- B. Setbacks. For all wetlands as defined in Article II of this ordinance and by Ordinance No. 107, setbacks for all structures, parking lots, streets or driveways shall be in accordance with the following regulations:

	Required Setbacks
All structures or buildings	25 ft.
All decks	10 ft.
Parking lots	25 ft.
Streets, roads, driveways	25 ft.

- C. Waivers. The Planning Commission has the discretion to decrease the above required setbacks upon demonstration of the appropriateness of a lower setback and compliance with one (1) or more of the following criteria:

1. Demonstrated habitat preservation.
2. Demonstrated water quality preservation.
3. Demonstrated storm water quality retention.
4. Existence of a legal lot of record.

For development projects adjacent to wetlands which are not reviewed by the Planning Commission, the Building Official shall have authority to issue setback waivers subject to the criteria as listed above. Appeal to the Zoning Board of Appeals, in accordance with Section 30.06, may also be sought.

Section 27.18 - Wind Energy Conversion Systems *(added 02.01.10)*

- A. Intent – It is the intent of the Charter Township of Orion to promote the effective and efficient use of Wind Energy Conversion Systems (WECS) by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare. In no case shall this ordinance guarantee any wind rights or establish access to the wind.
- B. Approval Required - Except where noted in this Section, it shall be unlawful to construct, erect, install, alter, or locate any WECS project within the Charter Township of Orion unless approval for a:
1. Private WECS: A permit has been obtained from the Building Department as an accessory use and subject to Section 27.02 and the height restrictions of Section 28.02. Only one (1) Private WECS shall be permitted per parcel, and the private WECS shall not be allowed within a front yard area.
 2. Commercial WECS: A special land use has been obtained pursuant to Section 30.02 and this Section.

KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06-01-2022

KHA-Architectural Control Committee

Proposal submitted by:

Name Ted & Christi Adams

Address 2922 Saturn Dr. Lake Orion MI 48360

Phone (248) 875 - 6007

Proposal:

Install shadow box fencing on the lot line along Waldon Rd. ONLY, at the back of my property (not between houses). We will use the same fence already approved and installed along Baldwin Road.

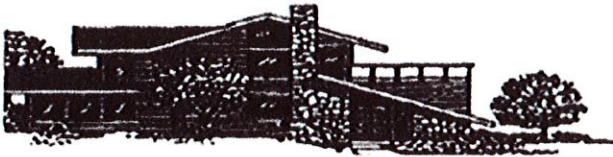
Action of Committee:

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

Explanation of Action:

The height is restricted to 48" per the Township Ordinance. The KHA has approved a 6' shadow box fence if the Township also agrees and approves the variance.

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



For a Better Community
KHA-Architectural Control Committee

By:

A handwritten signature in black ink, appearing to be "J. Adams", written over a horizontal line.

KHA ACC Chairperson

Debra Walton

From: Jeff Williams
Sent: Tuesday, July 19, 2022 9:55 AM
To: Debra Walton
Cc: Robert Duke; John Pender
Subject: RE: Residential ZBA Document for the August 8, 2022, ZBA Meeting

The fire department has reviewed the 5 attached cases and has no concerns at this time.



Jeffrey Williams, CFPS – Fire Marshal
Orion Township Fire Department - Fire Prevention
3365 Gregory Road Lake Orion, MI 48359
Office: 248.391.0304 ext. 2004 Cell: 248.978.5143
Fax: 248.309.6993

From: Debra Walton <dwalton@oriontownship.org>
Sent: Monday, July 18, 2022 1:47 PM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Document for the August 8, 2022, ZBA Meeting

Attached are five ZBA residential cases that needs to be reviewed by you for the August 8, 2022, ZBA meeting.



Debra Walton
Clerk
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5002
W: www.oriontownship.org



Charter Township of Orion

Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: (248) 391-0304 ext. 5001

MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022

RE: AB-2022-30, Adam Martin, 2923 Saturn Dr., 09-20-453-024.

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

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

Please be specific how the petitioner meets these criteria

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

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

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

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

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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:

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DENIAL OF A NON-USE VARIANCE

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

Further, based on the following findings of facts, the granting of this variance would:

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

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

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

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

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



Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: 248-391-0304 ext. 5001

RECEIVED

JUN 24 2022

Orion Township
Planning & Zoning

Case # AB-2022-30

Meeting Date: 8/8/2022

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: Adam Martin
Address: 2936 Saturn Dr City/State/Zip: Lake Orion, MI 48360
Phone: (248) 499-9376 Cell: (248) 875-6007 Fax: _____
Email: adam.martin@premierav.net

PROPERTY OWNER(S)

Name (s): Adam & Lori Martin
Address: 2936 Saturn Dr City/State/Zip: Lake Orion, MI 48360
Phone: (248) 499-9376 Cell: (248) 875-6007 Fax: _____
Email: adam.martin@premierav.net

CONTACT PERSON FOR THIS REQUEST

Name: Adam Martin Phone: (248) 875-6007 Email: adam.martin@premierav.net

SUBJECT PROPERTY

Address: 2936 Saturn Dr. Lake Orion, MI 48360 Sidwell Number: 09-20-453-024
Total Acreage: 0.32 Length of Ownership by Current Property Owner: 14 Years, 1 Months
Does the owner have control over any properties adjoining this site? No
Zoning Ordinance
Allowance/Requirement 4' Fence Deviation requested 6' Fence

Case #: _____

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.

I would like to install a 6-foot shadow box fence along the back of the property line only (NOT along the side). 4-foot fences are already allowed.

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area.

Our security, visual, & access privacy as well as the noise level from the increased pedestrian & vehicle traffic resulting from township growth & the new roundabouts has severely diminished our safety and the quality of life in our backyard. Kids trespass through our yard.

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

As mentioned above, it will improve our "health, safety, and well being" and in no way will an additional 2' be detrimental to the surrounding properties or improvements in the neighborhood or township. The exact same fence will be installed by the same fence company as what was installed on Baldwin Rd.

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

This request is a result of the ongoing changes we are seeing along Waldon Road in a relatively short period of time. Our fence will be consistent with those already installed on Baldwin Road in Keatington.

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

The "difficulty" is in no way the cause of something we did. It is a result of the growth on Waldon Rd. and new development in the surrounding areas, as well as the ever increasing use of the path.

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

N/A

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome.

Our "Quality Of Life" and safety is compromised by the constant noise, visual disturbance and security concerns. We cannot comfortably enjoy our backyard. There is no barrier that prevents anyone from trespassing from the safety path and entering our backyard. This would help minimize the amount of traffic noise we hear while trying to enjoy our backyard. A 6' fence is a better deterrent for climbing & theft.

Case #: _____

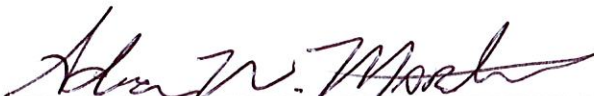
8. Have there been any previous appeals involving this property? If so, when? No

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

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

Signature of Applicant:

(must be original ink signature)

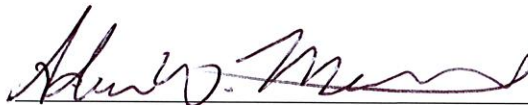


Date: 06-21-2022

Print Name: Adam W. Martin

Signature of Property Owner:

(must be original ink signature)



Date: 06-21-2022

Print Name: Adam W. Martin

If applicable:

I the property owner, hereby give permission to _____ to represent me at the meeting.

OFFICE USE ONLY

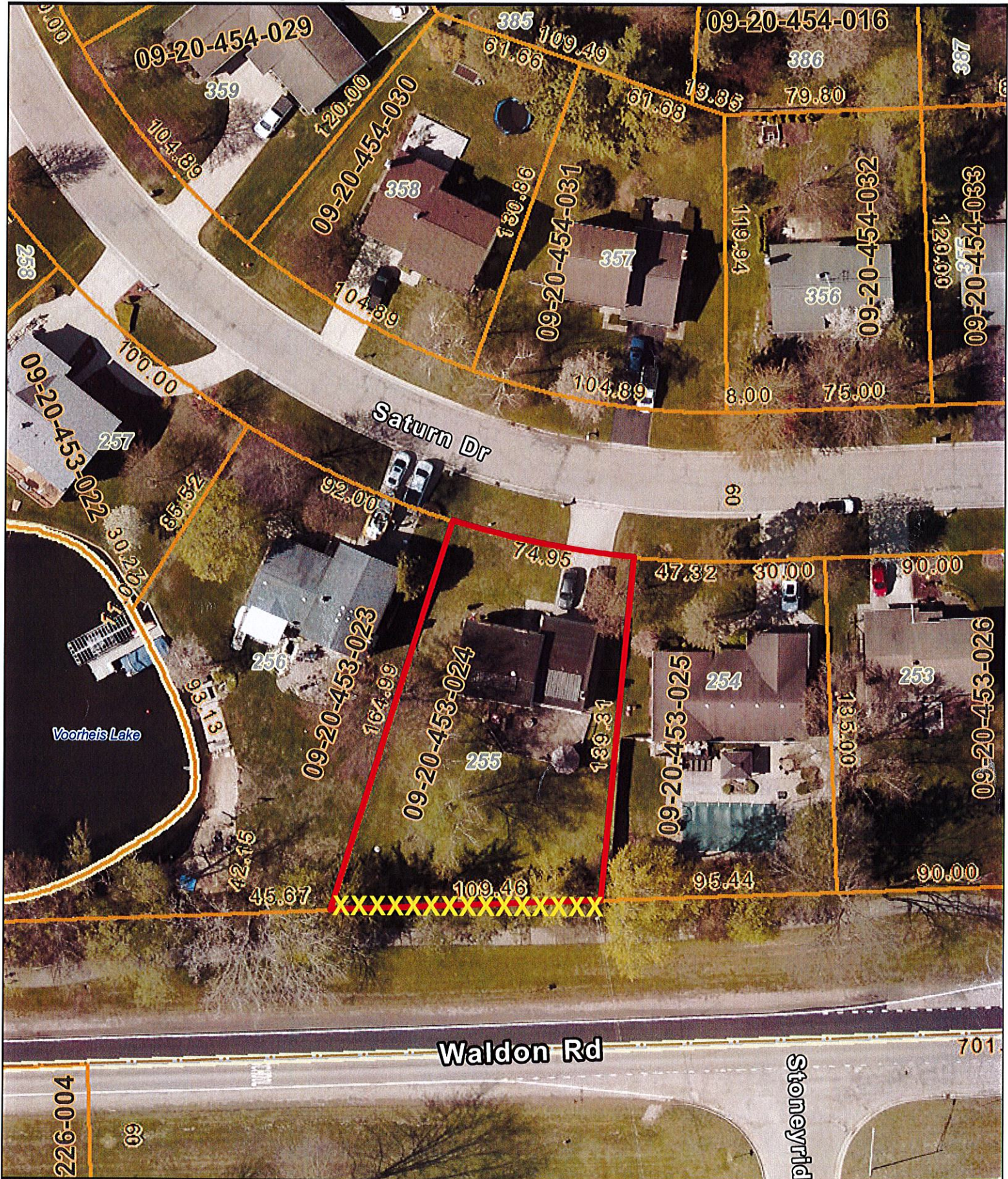
Zoning Classification of property: _____ Adjacent Zoning: N. S. E. W.

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

Description of variance(s): _____

Date Filed: _____ Fee Paid: _____ Receipt Number: _____

Hybrid 2936 Saturn Dr



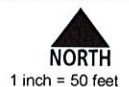
- 2 Foot Contours
- 5 Foot Contours
- FEMA Base Flood Elevations
- FEMA Cross Sections
- 100 yr - FEMA Floodplain
- 100 yr (detailed) - FEMA Floodplain
- 500 yr - FEMA Floodplain
- FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herein has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.



David Coulter
Oakland County Executive

Date Created: 5/20/2022



KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06-01-2022

KHA-Architectural Control Committee

Proposal submitted by:

Name Adam W. Martin

Address 2936 Saturn Dr. Lake Orion MI 48360

Phone (248) 875 - 6007

Proposal:

Install shadow box fencing on the lot line along Waldon Rd. ONLY, at the back of my property (not between houses). We will use the same fence already approved and installed along Baldwin Road.

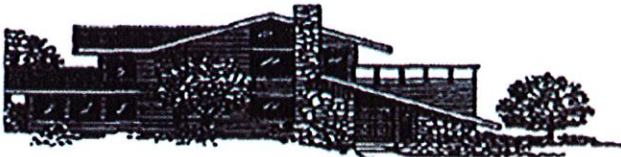
Action of Committee:

<input type="checkbox"/>	Accept Proposal as Submitted
<input checked="" type="checkbox"/>	Accept Proposal with Exceptions as Noted
<input type="checkbox"/>	Proposal Incomplete - Requires Additional Information - See Below
<input type="checkbox"/>	Reject Proposal - Against Township Zoning Regulations - See Below
<input type="checkbox"/>	Reject Proposal - Against Subdivision Deed Restrictions - See Below
<input type="checkbox"/>	Other- See Below

Explanation of Action:

The height is restricted to 48" per the Township Ordinance. The KHA has approved a 6' shadow box fence if the Township also agrees and approves the variance.

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



For a Better Community
KHA-Architectural Control Committee

By:

KHA ACC Chairperson

27.05 Landscaping, Fences and Walls

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

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

2. **Construction and Design.** Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.
3. **Site Plan.** Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

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

1. **Lot Enclosures.** Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.
2. **Privacy or Decorative Fences and Walls.** Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.
3. **Corner Clearance.** No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.
4. **Large Lots Excluded.** Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.
5. **Fences Enclosing Public Areas.** Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.
6. **Wall Specifications.** Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.
7. **Fence Specifications.** Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.
8. **Barbed Wire Prohibited.** Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.

27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses**A. Accessory Buildings, Structures and Uses. (amended 02.17.04)**

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.
2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.
3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.
4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)
5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

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

Debra Walton

From: Jeff Williams
Sent: Tuesday, July 19, 2022 9:55 AM
To: Debra Walton
Cc: Robert Duke; John Pender
Subject: RE: Residential ZBA Document for the August 8, 2022, ZBA Meeting

The fire department has reviewed the 5 attached cases and has no concerns at this time.



Jeffrey Williams, CFPS – Fire Marshal
Orion Township Fire Department - Fire Prevention
3365 Gregory Road Lake Orion, MI 48359
Office: 248.391.0304 ext. 2004 Cell: 248.978.5143
Fax: 248.309.6993

From: Debra Walton <dwalton@oriontownship.org>
Sent: Monday, July 18, 2022 1:47 PM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Document for the August 8, 2022, ZBA Meeting

Attached are five ZBA residential cases that needs to be reviewed by you for the August 8, 2022, ZBA meeting.



Debra Walton
Clerk
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5002
W: www.oriontownship.org



Charter Township of Orion

Planning & Zoning Department

2323 Joslyn Rd., Lake Orion MI 48360

P: (248) 391-0304 ext. 5001

MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: August 1, 2022

RE: AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013.

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

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

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

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

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

SAMPLE MOTION FOR
APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013**, I move that the petitioner's request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

Please be specific how the petitioner meets these criteria

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

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

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

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

Further, based on the following findings of facts, the granting of this variance would not:

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

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

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

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

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

SAMPLE MOTION FOR
DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013**, I move that the petitioner's request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

Further, based on the following findings of facts, the granting of this variance would:

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

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

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

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

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



Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: 248-391-0304 ext. 5001

RECEIVED

JUN 24 2022

Orion Township
Planning & Zoning

Case # AB-2022-31

Meeting Date: 8/8/2022

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: Ken Backus

Address: 2911 Walmsley Circle Dr. City/State/Zip: Lake Orion, MI 48360

Phone: _____ Cell: 248.464.9912 Fax: _____

Email: bkenback@aol.com

PROPERTY OWNER(S)

Name (s): Ken Backus

Address: 2911 Walmsley Circle Dr. City/State/Zip: Lake Orion, MI 48360

Phone: _____ Cell: 248.464.9912 Fax: _____

Email: bkenback@aol.com

CONTACT PERSON FOR THIS REQUEST

Name: Ken Backus Phone: 248.464.9912 Email: bkenback@aol.com

SUBJECT PROPERTY

Address: 2911 Walmsley Circle Dr., Lake Orion, MI 48360 Sidwell Number: 09-20-452-013

Total Acreage: .60 Acres Length of Ownership by Current Property Owner: 55 Years, 0 Months

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

Zoning Ordinance variance for fence to be 0 feet
Allowance/Requirement from rear property line Deviation requested 10 feet

Case #: _____

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. _____

I would like to install a 6' shadow box fence along the back of the property line only (NOT along the sides). 4-foot fences are already approved by the Township & the KHA.

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. _____

My security, visual, & privacy as well as the noise level from the increased pedestrian & vehicle traffic resulting from township growth has severely diminished the safety and the quality of life while in the backyard. Kids trespass in my yard. Adults also trespass in order to ice fish from my property.

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

It will improve the "health, safety, and well being" and in no way will an additional 2' be detrimental to the surrounding properties or improvements in the neighborhood or township. The exact same fence will be installed by the same fence company as Baldwin. This would also protect kids from a potential water hazard.

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

This request is a result of the ongoing changes I have seen along Waldon Road in a relatively short period of time. The fence will be consistent with those already installed on Baldwin Road in Keatington.

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

The "difficulty" is in no way the cause of something I did. It is a result of the growth on Waldon Rd. and the development in the surrounding areas, as well as the constant increased use of the path. This is based on the increased traffic as the area has matured since I purchased the property.

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

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. _____

Our "Quality Of Life" and safety is compromised by the constant noise, the visual disturbance and security concerns. We cannot comfortably enjoy our backyard. There is no barrier that prevents anyone from trespassing from the path & entering our yard or water. This would also help to minimize the amount of traffic noise we hear while trying to enjoy our backyard. A 6' fence is a better deterrent to climbing & theft.

Case #: _____

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

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

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

Signature of Applicant: Kenneth A Backus Date: 06/15/2022
(must be original ink signature)

Print Name: Ken Backus

Signature of Property Owner: Kenneth A. Backus Date: 06/15/2022
(must be original ink signature)

Print Name: Ken Backus

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: _____

KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06/01/2022

KHA-Architectural Control Committee

Proposal submitted by:

Name Ken Backus

Address 2911 Walmsley Circle, Lake Orion, MI 48360

Phone 248.464.9912

Proposal:

Install shadow box fencing on the lot line along Waldon Rd. ONLY, at the back of my property (not between houses). We will use the same fence already approved and installed along Baldwin Road.

Action of Committee:



Accept Proposal as Submitted

Accept Proposal with Exceptions as Noted

Proposal Incomplete - Requires Additional Information - See Below

Reject Proposal - Against Township Zoning Regulations - See Below

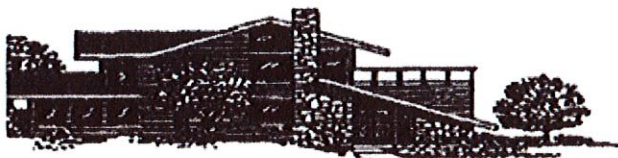
Reject Proposal - Against Subdivision Deed Restrictions - See Below

Other- See Below

Explanation of Action:

The height is restricted to 48" per the Township Ordinance. The KHA has approved a 6' shadow box fence if the Township also agrees and approves the variance.

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



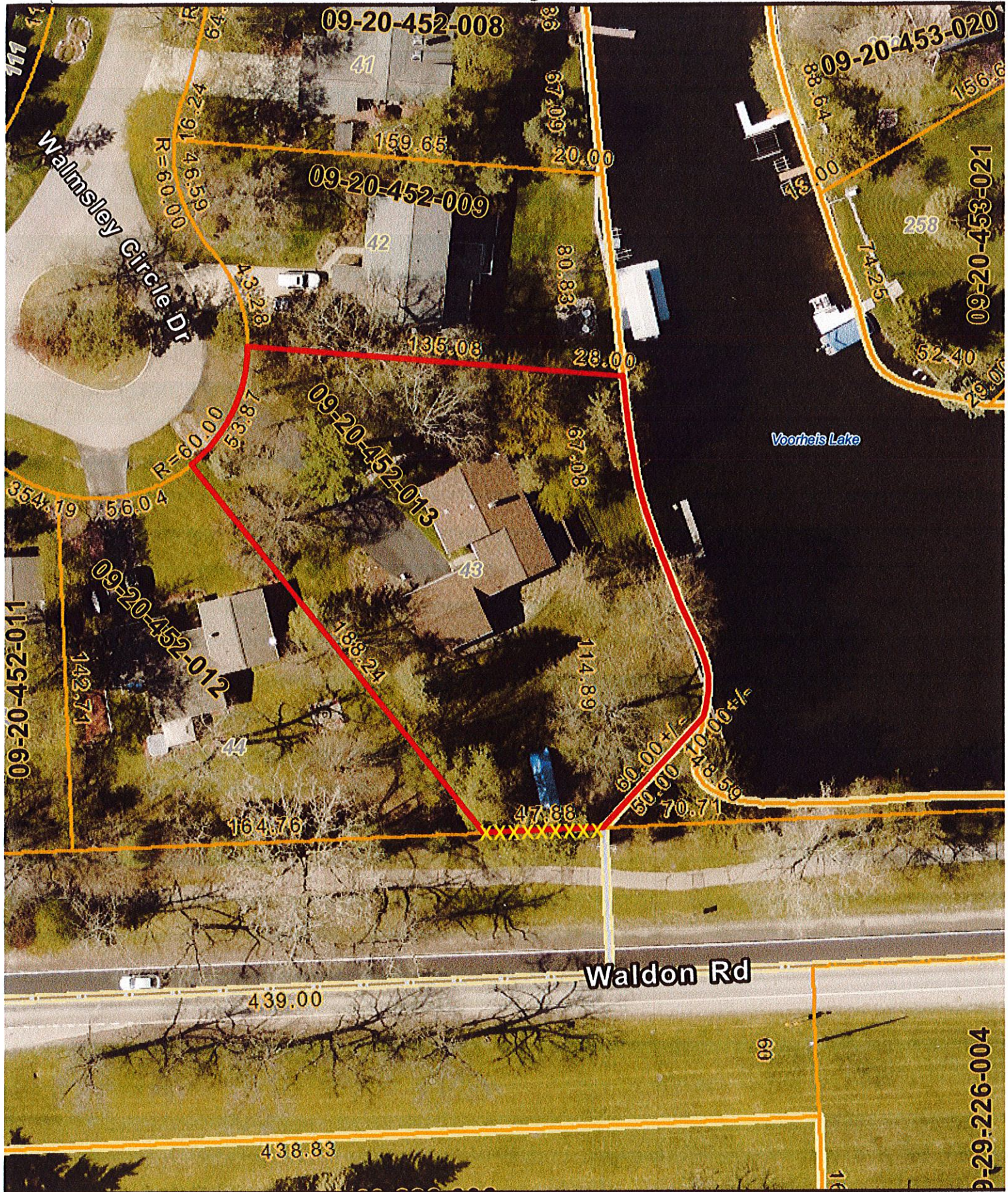
For a Better Community

KHA-Architectural Control Committee

By:

KHA ACC Chairperson

2911 Walmsley Circle Dr.



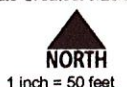
- 2 Foot Contours
- 5 Foot Contours
- FEMA Base Flood Elevations
- FEMA Cross Sections
- 100 yr - FEMA Floodplain
- 100 yr (detailed) - FEMA Floodplain
- 500 yr - FEMA Floodplain
- FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.



David Coulter
Oakland County Executive

Date Created: 5/23/2022



27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses**A. Accessory Buildings, Structures and Uses. *(amended 02.17.04)***

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.
2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.
3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.
4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. *(amended 07.16.18)*
5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. *(amended 07.16.18)*

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

27.05 Landscaping, Fences and Walls

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

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

2. **Construction and Design.** Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.
3. **Site Plan.** Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

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

1. **Lot Enclosures.** Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.
2. **Privacy or Decorative Fences and Walls.** Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.
3. **Corner Clearance.** No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.
4. **Large Lots Excluded.** Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.
5. **Fences Enclosing Public Areas.** Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.
6. **Wall Specifications.** Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.
7. **Fence Specifications.** Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.
8. **Barbed Wire Prohibited.** Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.

Debra Walton

From: Jeff Williams
Sent: Tuesday, July 19, 2022 9:55 AM
To: Debra Walton
Cc: Robert Duke; John Pender
Subject: RE: Residential ZBA Document for the August 8, 2022, ZBA Meeting

The fire department has reviewed the 5 attached cases and has no concerns at this time.



Jeffrey Williams, CFPS – Fire Marshal
Orion Township Fire Department - Fire Prevention
3365 Gregory Road Lake Orion, MI 48359
Office: 248.391.0304 ext. 2004 Cell: 248.978.5143
Fax: 248.309.6993

From: Debra Walton <dwalton@oriontownship.org>
Sent: Monday, July 18, 2022 1:47 PM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Document for the August 8, 2022, ZBA Meeting

Attached are five ZBA residential cases that needs to be reviewed by you for the August 8, 2022, ZBA meeting.



Debra Walton
Clerk
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5002
W: www.oriontownship.org



Charter Township of Orion

Planning & Zoning Department

2323 Joslyn Rd., Lake Orion MI 48360

P: (248) 391-0304 ext. 5001

MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022

RE: AB-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012.

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

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

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

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

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

SAMPLE MOTION FOR
APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012**, I move that the petitioner's request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

Please be specific how the petitioner meets these criteria

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

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

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

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

Further, based on the following findings of facts, the granting of this variance would not:

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

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

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

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

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

SAMPLE MOTION FOR
DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012**, I move that the petitioner's request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

Further, based on the following findings of facts, the granting of this variance would:

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

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

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

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

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



Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: 248-391-0304 ext. 5001

RECEIVED

JUN 24 2022

Case # AB-2022-32

Meeting Date: 8/8/2022

Orion Township
Planning & Zoning

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 Humbert
Address: 2917 Walmsley Circle Dr. City/State/Zip: Lake Orion, MI 48360
Phone: _____ Cell: 248.842.8793 Fax: _____
Email: kurgen54@gmail.com

PROPERTY OWNER(S)

Name (s): Sueila Humbert
Address: 2917 Walmsley Circle Dr. City/State/Zip: Lake Orion, MI 48360
Phone: _____ Cell: 248.842.8793 Fax: _____
Email: kurgen@gmail.com

CONTACT PERSON FOR THIS REQUEST

Name: Mike Humbert Phone: 248.842.8793 Email: kurgen54@gmail.com

SUBJECT PROPERTY

Address: 2917 Walmsley Circle Dr., Lake Orion, MI 48360 Sidwell Number: 09-20-452-012
Total Acreage: .37 Acres Length of Ownership by Current Property Owner: _____ Years, _____ Months
Does the owner have control over any properties adjoining this site? NO
Zoning Ordinance variance for fence to be 0 feet
Allowance/Requirement from rear property line Deviation requested 10 feet

1. Describe in detail the nature of the request.

I would like to install a 6-foot shadow box fence along the back of the property line only (NOT along the side). 4-foot fences are already allowed.

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area.

Our security, visual, & access privacy as well as the noise level from the increased pedestrian & vehicle traffic resulting from township growth & the new roundabouts has severely diminished our safety and the quality of life in our backyard. Kids trespass through our yard.

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

As mentioned above, it will improve our "health, safety, and well being" and in no way will an additional 2' be detrimental to the surrounding properties or improvements in the neighborhood or township. The exact same fence will be installed by the same fence company as what was installed on Baldwin Rd.

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

This request is a result of the ongoing changes we are seeing along Waldon Road in a relatively short period of time. Our fence will be consistent with those already installed on Baldwin Road in Keatington.

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

The "difficulty" is in no way the cause of something we did. It is a result of the growth on Waldon Rd. and new development in the surrounding areas, as well as the ever increasing use of the path.

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

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome.

Our "Quality Of Life" and safety is compromised by the constant noise, visual disturbance and security concerns. We cannot enjoy our backyard. There is no barrier that prevents anyone from trespassing from the safety path and entering our backyard. This would help minimize the amount of traffic noise we hear while trying to enjoy our backyard. A 6' fence is a better deterrent for climbing & theft.

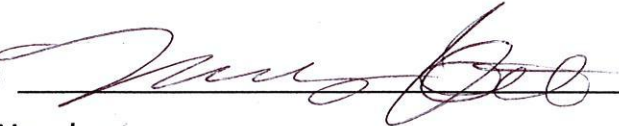
Case #: _____

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

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

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

Signature of Applicant:
(must be original ink signature)



Date: 06/21/2022

Print Name: Mike Humbert

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



Date: 06/21/2022

Print Name: ~~Mike Humbert~~ Snelce Humbert

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: _____

2917 Walmsley Circle



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David Coulter
Oakland County Executive

Date Created: 8/1/2022



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

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KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06/01/2022

KHA-Architectural Control Committee

Proposal submitted by:

Name Mike Humbert

Address 2917 Walmsley Circle, Lake Orion, MI 48360

Phone 248.842.8793

Proposal:

Install shadow box fencing on the lot line along Waldon Rd. ONLY, at the back of my property (not between houses). We will use the same fence already approved and installed along Baldwin Road.

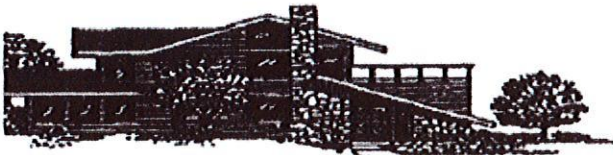
Action of Committee:

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

Explanation of Action:

The height is restricted to 48" per the Township Ordinance. The KHA has approved a 6' shadow box fence if the Township also agrees and approves the variance.

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



For a Better Community
KHA-Architectural Control Committee

By:

A handwritten signature in black ink, appearing to be 'J. B. B.', written over a horizontal line.

KHA ACC Chairperson

Debra Walton

From: Jeff Williams
Sent: Tuesday, July 19, 2022 9:55 AM
To: Debra Walton
Cc: Robert Duke; John Pender
Subject: RE: Residential ZBA Document for the August 8, 2022, ZBA Meeting

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Charter Township of Orion

Planning & Zoning Department

2323 Joslyn Rd., Lake Orion MI 48360

P: (248) 391-0304 ext. 5001

MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022

RE: AB-2022-33, Catherine Baker, 2933 Walmsley Circle Dr., 09-20-381-004.

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

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

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

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

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

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

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
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be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

Please be specific how the petitioner meets these criteria

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

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

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

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

Further, based on the following findings of facts, the granting of this variance would not:

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

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

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

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

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

SAMPLE MOTION FOR
DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-33, Catherine Baker, 2933 Walmsley Circle Dr., 09-20-381-004**, I move that the petitioner's request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

Further, based on the following findings of facts, the granting of this variance would:

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

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

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

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

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



Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: 248-391-0304 ext. 5001

RECEIVED

JUN 24 2022

Orion Township
Planning & Zoning

Case # AB-2022-33

Meeting Date: 8/8/2022

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: Catherine Baker
Address: 2933 Walmsley Circle City/State/Zip: Lake Orion, MI 48360
Phone: (615) 357-7768 Cell: (248) 657-3801 Fax: _____
Email: cjbaker03@live.com

PROPERTY OWNER(S)

Name (s): Catherine Baker
Address: 2933 Walmsley Circle Dr City/State/Zip: Lake Orion, MI 48360
Phone: (615) 357-7768 Cell: (248) 657-3801 Fax: _____
Email: cjbaker03@live.com

CONTACT PERSON FOR THIS REQUEST

Name: Catherine Baker Phone: (615) 357-7768 Email: cjbaker03@live.com

SUBJECT PROPERTY

Address: 2933 Walmsley Circle Drive Sidwell Number: 09-20-381-004
Total Acreage: _____ Length of Ownership by Current Property Owner: 5 Years, 4 Months
Does the owner have control over any properties adjoining this site? No
Zoning Ordinance Allowance/Requirement 4' Fence Deviation requested 6' Fence

Case #: _____

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. I would like to install a 6 ft. shadow box fence along the back of the property line only (not along side)
4- foot fence are already allowed.
2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. Our family security, visual & access privacy as well as the noise level from the increased pedestrian & vehicle traffic resulting from township growth. The new pond abouts has severely diminished our safety and quality of life in our backyard. Kids trespass through the yard.
3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: As mentioned above, it will improve our health, safety, and well being and in no way will an additional 2' be detrimental to the surrounding properties or improvement in the neighborhood or township. The exact same fence that was installed on Baldwin would be installed on Walden.
4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: Our fence will be consistent with those already installed on Baldwin Rd. in Keatington. This request is a result of the changes we are seeing along Walden Rd.
5. Describe how the alleged practical difficulty has not been self-created. The difficulty is the result of growth on Walden Rd. due to new developments in the area, as well as ever increasing use of the park
6. The topography of said land makes the setbacks impossible to meet because: NA
7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. We have constant noise, visual disturbance and we cannot enjoy our back yard. There is no barrier that prevents anyone from entering the yard. A six ft. fence would be a better deterrent for climbing, spying in would be hard. It would be nice to leave our blinds open.

Case #: _____

8. Have there been any previous appeals involving this property? If so, when? No, at least not while I have owned it.

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

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

Signature of Applicant:

(must be original ink signature)

Catherine Baker

Date:

June 16, 2022

Print Name:

Catherine Baker

Signature of Property Owner:

(must be original ink signature)

Catherine Baker

Date:

June 16, 2022

Print Name:

Catherine Baker

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: _____



2933 Walmsley Circle Dr_8.5x11P_1653317843



- FEMA Floodplain
(detailed) - FEMA Floodplain
- FEMA Floodplain
DIWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.



David Co
Oakland County

27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses**A. Accessory Buildings, Structures and Uses. *(amended 02.17.04)***

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.
2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.
3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.
4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. *(amended 07.16.18)*
5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. *(amended 07.16.18)*

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

27.05 Landscaping, Fences and Walls

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

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

2. **Construction and Design.** Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.
3. **Site Plan.** Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

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

1. **Lot Enclosures.** Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.
2. **Privacy or Decorative Fences and Walls.** Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.
3. **Corner Clearance.** No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.
4. **Large Lots Excluded.** Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.
5. **Fences Enclosing Public Areas.** Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.
6. **Wall Specifications.** Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.
7. **Fence Specifications.** Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.
8. **Barbed Wire Prohibited.** Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.

KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06-01-2022

KHA-Architectural Control Committee

Proposal submitted by:

Name Catherine Baker

Address 2933 Walmsley Circle Dr.

Phone (615) 357 - 7768

Proposal:

Install shadow box fencing on the lot line along Waldon Rd. ONLY, at the back of my property (not between houses). We will use the same fence already approved and installed along Baldwin Road.

Action of Committee:

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

Explanation of Action:

The height is restricted to 48" per the Township Ordinance. The KHA has approved a 6' shadow box fence if the Township also agrees and approves the variance.

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



For a Better Community
KHA-Architectural Control Committee

By:

KHA ACC Chairperson

Debra Walton

From: Jeff Williams
Sent: Tuesday, July 19, 2022 9:55 AM
To: Debra Walton
Cc: Robert Duke; John Pender
Subject: RE: Residential ZBA Document for the August 8, 2022, ZBA Meeting

The fire department has reviewed the 5 attached cases and has no concerns at this time.



Jeffrey Williams, CFPS – Fire Marshal
Orion Township Fire Department - Fire Prevention
3365 Gregory Road Lake Orion, MI 48359
Office: 248.391.0304 ext. 2004 Cell: 248.978.5143
Fax: 248.309.6993

From: Debra Walton <dwalton@oriontownship.org>
Sent: Monday, July 18, 2022 1:47 PM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Document for the August 8, 2022, ZBA Meeting

Attached are five ZBA residential cases that needs to be reviewed by you for the August 8, 2022, ZBA meeting.



Debra Walton
Clerk
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5002
W: www.oriontownship.org

JUL 25 2022

Orion Township
Planning & Zoning

Dear Township board members,

I am writing you about the variance requested for 2933 Walmsley Circle dr. Meeting on Monday August 8, 2022.

I have pictures and explanations of things we have done and facts on traffic along Waldon road.

I do like trees and bushes etc. and I would have liked to enjoy having them as a barrier for sound and privacy. There is a big difference along Waldon road where many of my neighbors have trees etc. right up to the walking and biking path. Unfortunately; my area behind my house never had that or if it did, it had to be a while ago.

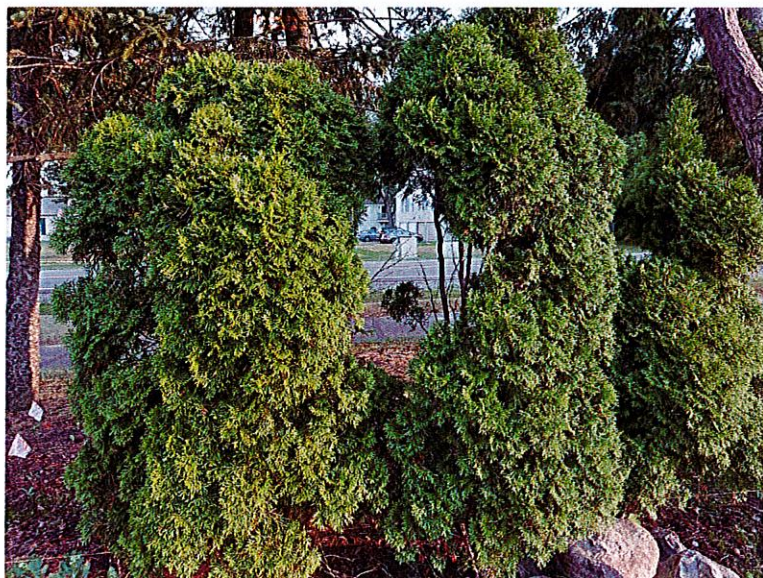


The property I have had 5 dead trees on it that I had to have taken down. The trees that are left are several diseased spruces and one Scot pine which is dying from Nematodes inside the tree. These trees along with the black walnut trees have shaded the area along the back of my property, and that has made it difficult to plant and have bushes survive and grow due the reduce amount of sunlight. I did

plant ten emerald green trees, but they all died. The trees I have there are not strong as the side that gets light is nice and green, but the backside of them died out and makes those trees weak and they break off from the wind.

As you can see from this pic, these green bush trees look good, but from the back, see next picture.



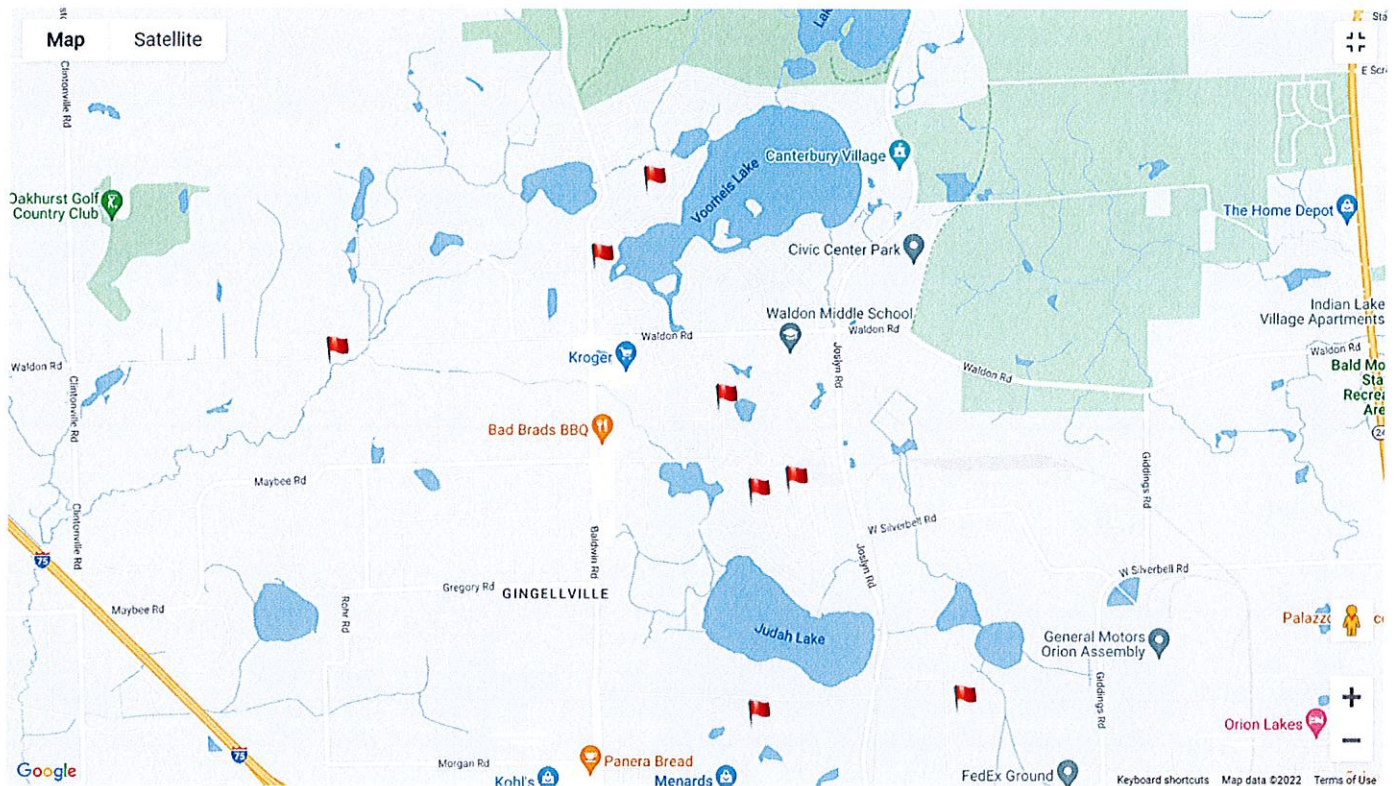


With the back side not filled these bushes tend to break from the wind and leave gaps, as time goes on, they keep breaking.

I keep trying new bushes etc. in hopes some will do better, but I have a lot of sick and ugly looking trees on the backside of my property that shade the area. I am 68 years old, not sure if I will ever see a real live tree privacy fence for this yard.



It is my understanding I could have a 4 ft. fence along the property line which would mean I would have to cut a six-foot fence down to 4 feet, since the materials for the type of fence I need only comes in 6 feet length. I am not sure why the township would not allow 2 more feet in height. The number of cars on Waldon has increased dramatically: I have taken count on different days and I am actually surprised at how much traffic we get. On Saturday, June 11th, I sat on my back patio and counted 165 cars from 1:05 pm in the afternoon to 1:20 pm which is a 15 minutes span. On Tuesday June 28, I counted 143 cars and 12 walkers behind my home from 7:15pm to 7:30 pm. When traffic gets back up at the circle at Waldon and Baldwin, cars sit on the road in the back of my property and people can see us in the back yard. I have grandchildren and our youngest is not allowed to play in our back yard due to safety concerns, as anyone can see her playing and her swing set sits not that far from the walking path.



We lack the privacy most backyards have to public areas. At night we have to make sure our blinds are closed as we have a patio window and our living room window faces the back. I just do not like the idea when you have a younger child and there is no privacy in the backyard and we have pedophiles in our area and these are the ones we know of on this map. The flags represent pedophiles registered in our area. Things are quite different today then when this house was built.

Our house also sits back towards Waldon road more than most of my neighbors' houses, so my house sets 10 to 15 feet back of where my neighbors' house ends which means my yard is smaller and the house sits closer to the road and path. I have heard that the board approved 6 foot fences that had to be at least 6 feet in for other properties along Waldon. That would make my yard a lot smaller and kill off what plants I do have growing as that would block what sunlight that they receive from the yard side. On top of that I have an electrical box in the way.

I spoke with my neighbor that works for DTE. I asked him about my electric box and which side of the box DTE services it from, in other words would they come from Waldon road or Walmsley Circle. He told me it would be based on the side of the box that opens which in my case faces Walmsley Circle drive.



This box sits in the way of putting a six-foot fence up at 6 feet inside the property line as I would have to go around it somehow, on top of that I would have to move some of my sprinkler system and our playset would be very close to a fence that had to be in 6 feet from the property line. I have everything marked including where a fence 6 feet in would have to be, but it will show you that is not practical.

I do ask you to allow me to put a 6 feet high fence right on the property line where a 4 feet fence could go now. It is only two feet higher than what you allow now. This would help with noise, privacy and safety that we currently lack. Thank you for your time.

Sincerely,

Catherine Baker

2933 Walmsley Circle Dr.