1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 8-10-2020, ZBA Regular Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2020-22, Shaun Lewis, 1398 Goldeneye, 09-25-401-026, Re-hearing
      The petitioner is requesting a re-hearing of AB-2020-12 with new evidence. The variance request
      was for three (3) dimensional variances from Zoning Ordinance No. 78 (see Public Hearing notice
      published in the Lake Orion Review on July 8, 2020). The new evidence provided is as follows:
      • A similar situation was approved in 2018 for 3379 Mallard Lane
      • Correspondence from petitioner’s neighbors endorsing the request
      • Correspondence from HOA President endorsing the request
   B. AB-2020-20, Douglas Featherston, 2500 Flintridge, 09-29-429-021
      The petitioner is requesting 1 variance from Zoning Ordinance #78
      Article XXVII, Section 27.02(A)(5) - Zoned R-21.
      1. A 2.3-ft variance above the 11.2-ft. mid-point measurement of the principal structure, to build a detached
         garage that measures 13.5-ft. to its mid-point.
   C. AB-2020-21, Northern Sign/Ashley Home Store Sign, 4936 Baldwin,
      09-32-351-024
      The petitioner is requesting 2 variances from Sign Ordinance 153
      1. A variance to allow 1 additional wall sign to a business with an existing wall sign for a total of 2 wall signs.
      2. A 242.38-sq. ft. variance above the allowed 200 sq. ft. maximum for 2 wall signs totaling 442.38-sq. ft.
6. PUBLIC COMMENTS
7. COMMUNICATIONS
   A. Date Certain Memo
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
10. ADJOURNMENT

In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to
contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to
request accommodations.
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 10, 2020, at 7:00 pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS PRESENT:**
- Loren Yaros, Chairman
- Dan Durham, Vice-Chairman
- Don Walker, PC Rep to ZBA
- Lucy Koscierzynski, Secretary
- Mary Painter, Alternate Board Member

**ZBA MEMBER ABSENT:**
- Mike Flood, BOT Rep to ZBA

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

**OTHERS PRESENT:**
- Brian Winter
- Susan Winter
- Joseph Burgess
- Matthew Menghini
- Kim Long
- Paul Klimek

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

2. **ROLL CALL**
As noted

3. **MINUTES**
   
   **A. 7-27-2020, ZBA Regular Meeting Minutes**
   Moved by Secretary Koscierzynski, seconded by Alternate Board Member Painter, to **approve** the minutes as presented. **Motion Carried**

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

5. **ZBA BUSINESS**

   **A. AB-2020-16, Matthew Menghini, 1145 Arbroak, 09-10-127-005**
Chairman Yaros read the petitioner’s request as follows:

   The petitioner is requesting 1 variance from Zoning Ordinance No. 78:
   
   Article VI, Section 6.04 Zoned R-2
   
   1. A 1.5-ft. side yard setback variance from the required 10-ft. to build an attached garage 8.5-ft. from the property line (northwest).

Mr. Matthew Menghini, the applicant, was present via the GoToMeeting program.
Chairman Yaros asked what the applicant was planning on doing?

Mr. Menghini replied that he would be knocking down the garage, as it is. He is adding six feet to the side of it and rebuilding the garage with a bedroom on top to add to the number of bedrooms they have in their house.

Chairman Yaros said that he was out at the site and noted that there was 40-50-ft. to their neighbor, and felt there was plenty of room.

Chairman Yaros added that there was a letter from their neighbor stating that they have met with the applicant and they had looked at the plans, and they are in agreement with them and that is the neighbor on that side.

Mr. Menghini said that he spoke with all his neighbors in the court, and everybody around them to make sure that nobody had any problems with it.

Secretary Kosciierzynski stated that she was at his property and said she didn’t have a problem with it. She said that she thought the Practical Difficulty was there isn’t enough space in between the neighbors for him to actually build an addition. She thought that he had the perfect situation with all the space above the actual garage to go in there and build some living space. She thought the way the houses on that block circle over there, she thought that they had the perfect situation with regard to utilizing the space above that garage and thought it was an excellent idea.

Alternate Board Member Painter said that she also went out and looked it over and 1.5-ft. she said she was behind it.

Board Member Walker agreed with the fellow members.

Vice-Chairman Durham stated that everything looked good to him.

Chairman Yaros asked if there were any emails or messages in the chat bubble? Building Official Goodloe replied there was not.

Moved by Secretary Kosciierzynski, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-16, Matthew Menghini, 1145 Arbroak, 09-10-127-005, the petitioner’s is requesting one variance from Zoning Ordinance No. 78, Article VI, Section 6.04, Zoned R-2: 1) a 1.5-ft. side yard setback variance from the required 10-ft. to build an attached garage 8.5-ft. from the property line (northwest) be granted because the petitioner did demonstrate the following standards for variances have been met in this case in that they set forth facts that show that in this case the petitioner show the following Practical Difficulty: there isn’t enough space between him and the neighbor to actually build an addition and that he is utilizing that space, above the garage, just empty space, to build an extra room; the following are exceptional or extraordinary circumstances or conditions that are applicable to the property involved that do not apply generally to other properties in the same district: the street he lives on it is in a circle, so the houses don’t have a lot of space between them and felt that he was utilizing that space; 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 findings of facts: the petitioner needs extra space for his growing family, and the house crowded, and there isn’t enough space for an addition; 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 finding of fact: the houses on the street in a circular and there is not enough space in-between all the other houses, his neighbors are fine with it; further based on the following finding of facts the granting of this variance will not impair adequate supply of light and air to adjacent properties and will not unreasonably increase the congestion in public streets; it will not
increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area: if anything this will increase property values; or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the township.

Secretary Koscierzynski amended the motion, Chairman Yaros re-supported to include that the Fire Marshal has signed off on this. Also, added to the motion that this addition would make the neighborhood look better.

Roll call vote was as follows: Walker, yes; Durham, yes; Koscierzynski, yes; Painter, yes; Yaros, yes. Motion Carried 5-0

B. AB-2020-17, Paul Klimek, 733 Mariday St., 09-01-378-048
Chairman Yaros read the petitioner’s request as follows:

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

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

1. An 8-ft. side yard setback variance (east) from the required 8-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line (east)
2. An 8-ft. side yard setback variance (west) from the required 8-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line (west)
3. 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

Mr. Paul Klimek the applicant, was present via the GoToMeeting program.

Chairman Yaros asked the applicant why he needs these variances? Mr. Klimek replied that he is going to be replacing the current chain-link fences set near his property line. He thought it was set 4-6 inches off the property line. He has dogs in his yard that are starting to challenge the 4-ft. fence, so he would like to make it a 6-ft. fence and then make it private as well. He has spoken with his neighbors on both sides, but didn’t have any letters written from them, and said that all he can go off of is hearsay, that he had talked to them and they had no problem with it. It has nothing to do with any kind of neighbor nuisances just for his pets so they stay in the yard.

Chairman Yaros said the only problem he had was that he couldn’t find any six-foot fences in the area that went down all the property lines. He found there were short pieces by their patios. He then went to the end of the street and looked down the backyards, and thought it was nice that you could see right through.

Alternant Board Member Painter said that she went over there the other day and one of their dogs she thought was going to come over the fence, and scared her. It is a big dog and she is not a fence person she hates fences, but that dog is big and they have two of them. She noted that they had lived there for 17 years. She asked how long have they had the dogs? Mr. Klimek said they have had four dogs ever since they moved there, they have all been fairly big, but none of them have challenged the fence, like this one. The dog that was outside they have had for two years, they rescued him. So, they have had him for two years and the small one, they don’t have to worry about it. They like to rescue dogs but they don’t like to have too many at once. So, it is kind of a future type thing too, in case they get another dog.
Secretary Koscierzynski said that she too felt like the dog was going to jump the fence. She noted that she also didn’t see any other neighbors with a fence. She was leaning on having them have the fence because of the dog.

Alternate Board Member Painter noted that the property goes down in the back it is not like it is straight out and level with everybody else. She felt that it did not seem like any of the neighbors were going to be covered by the fences. She thought that the health and welfare of the neighbors, and if the dog jumps the fence, it could be a problem.

Secretary Koscierzynski noted that one side of the house doesn’t have any shrubs, but the other side of the house, they have a nice line of really pretty shrubbery and for that reason, she felt the fence would look good over there.

Mr. Klimek stated that he wasn’t sure if it was going to be a privacy fence or not, but they do want to go at least six feet. They haven’t decided on the style of the fencing, but they did know that it is going to be at least six feet.

Board Member Walker asked the petitioner if a six-foot chain-link fence would work? He asked if the privacy part was the important part or the six-foot? Mr. Klimek replied that it was the height of it but they wanted to make it look nice too. They were also thinking about extending the fence as well. They have looked at extending the four feet and possibly painting the chain-link fence.

Vice-Chairman Durham asked if they have looked at alternate ways to control the dog-like underground fencing? Mr. Klimek replied that he didn’t believe in underground fencing. Vice-Chairman Durham said that he has underground fencing and said that the only time the dog ever got hit by it was when it was in training. His dog knows it is there and avoids it. Mr. Klimek agreed with him and said it was not about the shock value, it was about the other dogs coming into his yard. Mr. Klimek stated that they have a lot of dogs that run freely in their neighborhood. Vice-Chairman Durham asked if they come over their fence? Mr. Klimek said no they just walk around the neighborhood. If he had underground fencing, the dog would be crossing it every time, because the dogs run the neighborhood. Vice-Chairman Durham noted that he has never seen it himself, but had heard people say that their dog will run through it.

Chairman Yaros stated that one of the things in his neighborhood, they don’t have any fences, and everybody has dogs. He has never ever seen any dog leave their yard, they are all underground fences or they have been trained. He wasn’t sure if those dogs were as big as Mr. Klimek’s dog?

Mr. Joseph Burgess, 757 Mariday stated that he was the neighbor a couple of doors down on the east side. He commented that there are several dogs, and people tend to let them run the neighborhood. His only concern was about once they start the privacy, for instance, six-ft. privacy, the backyards are open and felt it was nice to be able to look out and see everybody’s backyard, so it feels like they have more area than they really do. When they look at these lots’ they are very thin but go deep. Most of the people tend not to use a lot of their back portion of their yards, so it ends up being like an open green space. The people directly behind them they are at a 90-degree angle to them. He was concerned that once they start, they are going to end up with a domino effect, and then everyone will be building the 6-ft. fences. Would they all be able to get that variance in an automatic way? He understood about the dogs.

Chairman Yaros stated that was one of his concerns. Where he lives it looks open with no fences. He felt with a chain-link fence they get that open feeling. Maybe a six-ft. chain-link fence would work. Once one starts it, it makes it very tough for them, because everybody has a reason for everything.
Mr. Klimek said going back to the underground fencing, if everyone else had underground fencing he wouldn’t see the dogs roaming around as much. That doesn’t seem to be the case in his neighborhood. He sees a lot of other stray dogs coming from other neighbors too, so that is his concern. He wants to protect his dogs as much as he wants to protect everyone else’s dog in case something happens.

Chairman Yaros said that Mr. Burgess has brought up a good point, it does take away from the esthetics of the neighborhood.

Mr. Klimek stated that he was open to other types of styles, it was not just about privacy. As he starting thinking about it, he starting thinking about other esthetics as well, there are other types of fencing that was not underground fencing. He thought about extending the fence up to six-ft. as well.

Mr. Burgess stated that they had no objection to the chain-link fence. There is some value to having a nice big yard.

Secretary Koscierzynski asked the applicant if he would object to changing the wood fence to a chain-linked fence? Mr. Klimek replied that he was open to whatever makes the neighborhood happy. As well, like a price reduction too. They weren’t dead set on a privacy fence, it was just a thought that they had before they knew the whole process that they would have to go through to do that. He was open to just going up a couple of feet.

Chairman Yaros thought that it was more reasonable to do it that way and to maintain it. A wooden fence is very expensive to maintain, besides putting it up. It will also make the lot look bigger.

Board Member Walker asked the applicant if he would be willing to change his application to a chain-link fence rather than the Board changing it for him? Mr. Klimek asked if there was an additional cost to do that? Chairman Yaros replied no. Mr. Klimek was fine with that.

Moved by Alternate Board Member Painter, seconded by Secretary Koscierzynski, that in the matter of ZBA case AB-2020-17, Paul Klimek, 733 Mariday St., 09-01-378-048, the petitioner is requesting 3 variances from Zoning Ordinance No. 78: Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) 1) an 8-ft. side yard setback variance (east) from the required 8-ft. to erect a 6-ft. chain-link privacy fence 0-ft. from the side property line (east) 2) an 8-ft. side yard setback variance (west) from the required 8-ft. to erect a chain-link 6-ft. privacy fence 0-ft. from the side property line (west) 3) a 10-ft. rear year setback variance from the required 10-ft. to erect a chain-link 6-ft privacy fence 0-ft. from the rear property line, be granted because the petitioner did demonstrate that the following standards or variances have been met in this case and that they set forth facts which show that in this case, the petitioner does show the following Practical Difficulty: he has dogs and one of them is a large dog, it would keep them on the property and away from neighbors; 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: the property does slant back towards the back of the lot; 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: it would keep the animal from encroaching on the neighbors property; the granting of the variance or the modifications 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 property is located based on the following findings: hopefully the dogs will be controllable and will not jump the fence; further, based on the following findings of facts, the granting of this variance would not impair them adequate supply of light and air to the adjacent properties; it will not increase the danger of fire or endanger the public safety and unreasonably diminish or impact established property values within the surrounding area or in any other way impair the public health, safety, comfort, morals, or welfare of the inhabitants of the township.
Roll call vote was as follows: Durham yes; Walker, yes; Painter, yes; Koscierzynski, yes; Yaros, yes. Motion carried 5-0

C. AB-2020-18, Brian Winter, 150 Shorewood Ct., 09-03-405-029
Chairman Yaros read the petitioner’s request for 3 variances from Zoning Ordinance No. 78: Zoned R-3, Article XXVII, Section 27.01 (C)(1)(a):

1) A 12-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04 Zoned R-3

2) A 3-ft. side yard setback variance from the required 10-ft. to build a deck extension 7-ft. from the side property line (south)

3) A 13% lot coverage variance above the ZBA previously approved 36% for a total lot coverage of 49%

Chairman Yaros stated that they will be voting on the first variance separately because if the first variance gets turned down, there was no need to vote on the other two because they would not be allowed. The first variance has to pass before they go any further with the variance requests.

Mr. Brian and Mrs. Susan Winter the applicant, were present via the GoToMeeting program.

Chairman Yaros asked what the reasons were for needed these variances? He noted that they have a very narrow lot. Mr. Winter replied that they were in the process of rebuilding a deck because it is rotting. They have a small piece of property that is right in front of the deck in-between the deck, getting closer to the lake. It is kind of a useless piece of property. It is about 12-13-ft. from the current edge of the deck and then there is a sharp drop off with some large boulders that are there. Since they were rebuilding the deck, they thought this would be a perfect opportunity to take advantage of that little piece of property. When they looked at it, they looked at their neighbors and looked at where their decks were and realized that they would not be going any closer to the lake than the neighbors seem to be. They talked to all of their neighbors to make sure that they didn’t feel disenfranchised if they were to extend this.

Chairman Yaros read a letter from Lynn Harrison, Zoning Coordinator, that stated what she found as far as lot coverage variances for Shorewood. She found that 275-sq. ft. garage was not added until 2013 and also, she could not find any information that 280-sq. ft. deck was added or the 158 covered walkway was added.

Chairman Yaros asked how long they have owned the home? Mr. Winter replied that they acquired the property in 2013, and they acquired it out of foreclosure from a bank. They were aware of the last approved variance in 2000 but they had not expanded any portion of the house since they purchased in 2013. The garage was already a part of the house and the prior owner used it as a living space, but it was originally framed for a garage and they converted it back to a garage.

Chairman Yaros stated that his problem with it was that they actually had more than 36% coverage before they made their initial request because they didn’t have the garage or the cover walkway figured in and wasn’t sure if they had the deck figured in. Although their original request was roughly 221-sq. ft. which seems like a small request, they had covered at almost 40% may be more than that before they even made the request. He thought that it was a lot of coverage for a small lot. It is a 38-ft. lot in an area that requires 50-ft. lots. That is why they needed to decide whether or not to grant this 12-ft. width variance. If it is turned down, he thought that everything would stay the way it was, but they wouldn’t be able to have the deck. He did not think that they would be required to remove anything because it is existing, even though there was no variance for some of the things, prior to their purchase. It was not their fault it was there when they bought it.
Alternate Board Member Painter stated that when this was explained to her, it was stated that the first item needs to be considered to allow or deny the variance. That is the one they have to rule on first. Chairman Yaros replied that is the one they would have to rule on first. That will have to be a separate motion because if that is turned down the other two would not happen.

Chairman Yaros asked if what they are saying is that it is at 46% coverage right now? Mrs. Winter replied correct. Chairman Yaros stated that the only thing that has been tallied was 36%, but they bought it at 46% and now they want to increase it to 49%. Mr. Winter replied correct.

Chairman Yaros asked if the new deck will be 121-sq. ft.? Mr. Winter replied yes, an additional 121-sq. ft.

Vice-Chairman Durham stated that it seemed like they were dealing with excessive coverage already, and then moving it up beyond that, he wasn’t sure.

Chairman Yaros said that there is actually 46% coverage already, and they only want 3%, but still, it goes to 49%. He added that they first need to decide whether or not they are going to grant the 12-ft. variance from the 50-ft. minimum lot width, which would make it 38-ft.

Mrs. Winter asked if any of the Board Members were able to come out to the property to see how the neighbor’s properties are? She wondered if anyone could comment on that? Alternate Board Member Painters stated that they look at each case separately, it didn’t matter what the neighbors do. They look at each case separately on their own merit. Mrs. Winter said that the reason she was asking was that most of the properties were built a long time ago, and they are very narrow lots as someone has already mentioned. Right next door to them they thought they had 85% coverage and the home is right on the property line. She thought that where they are, and how the neighbors are set, she thought it would make a bit of impact on how this comes off, and how it fits in with the rest of the area. Alternate Board Member stated that a request to make the structure more non-conforming than it already was, so they would be added to the denominator.

Secretary Koscierzynski commented that about the neighborhood. She noted that the Board is familiar with neighborhoods like this where the streets are narrow, the houses are small, and there isn’t a lot of space in between. She stated that she went to the property and walked around back, as far back as she could. She spoke to one of their neighbors. She said she was familiar with the area. She asked the petitioner what their Practical Difficulty was? Mrs. Winter replied that the area that they are looking to extend the deck is a very narrow area, so it requires maintenance and they don’t get any use out of it. Being able to extend the deck would make that space a lot more useful to them. It would make their deck and that portion of land, more functional, and would reduce the maintenance that they have in that section. It would allow them to be more in line with the neighbors in terms of their vantage point of the
lake, because the decks on three out of the four properties on either said of them go even further than what they are looking to go with, with this extension.

Chairman Yaros asked if there were any comments from the public? Building Official Goodloe replied there was not.

Chairman Yaros said that they needed a motion of the 12-ft. lot variance from the required 50-ft.

Vice-Chairman Durham felt that they didn't need to go through all the hoops on this variance because it is a variance that they can't do anything about. It was that wide when they got it.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-18, Brian Winter, 150 Shorewood Ct. 09-03-405-029, the petitioner's first request 1) a 12-ft. lot width variance from the required minimum 50-ft. lot width be granted because the property was that wide when they got it. It would be grossly unfair not to do so.

Roll call vote was as follows: Painter, no; Koscierzynski, yes; Walker, yes; Durham, yes; Yaros, no. Motion carried 3-2

Chairman Yaros noted that if anyone makes a motion, it will be on the 13% coverage variance from the approved 36% for a total lot coverage of 49%.

Chairman Yaros asked Building Official Goodloe if there was anyone else who wanted to speak on the matter? Building Official Goodloe replied no.

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-18, Brian Winter, 150 Shorewood Ct. 09-03-405-029, the petitioner is requesting a variance (number two variance of the three) 2) a 3-ft. side yard setback variance from the required 10-ft. to build a deck extension 7-ft. from the side property line (south) be granted because the petitioner did demonstrate that the following standards have been met in this case in that they set forth facts which show that in this case: the petitioner does sow the following Practical Difficulty: due to the unique characteristics of the property it is 38.5 foot wide lot; the following are exceptional or extraordinary circumstances applicable to the property involved that do not apply generally to other properties: this is the narrowest of the properties in the area; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone: the house was already there and it was there when they purchased it; the granting of the 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; further, it will not impair an adequate supply of light or air; it will not increase congestion in public streets; it will not increase the fire or endanger the public safety: there was a report from the Fire Marshal on that subject; it will not unreasonably diminish or impair established property values; 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: Durham, yes; Painter, no; Koscierzynski, yes; Walker, yes; Yaros, no. Motion carried 3-2

Moved by Board Member Walker, seconded by Alternate Board Member Painter, that in the matter of ZBA Case AB-2020-18, Brian Winter, 150 Shorewood Ct. 09-03-405-029, I would move that the petitioner's request for a variance (number three of three) 3) a 13% lot coverage variance above the previously approved 36% for a total lot coverage of 49% be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case, in that they set forth the following set of facts: there is no Practical Difficult, this matter, apparently the review of the file on this particular bit of property is listed, and it looked like there was a 36% lot coverage, but in reality from
discussion with the Township the lot coverage is already at 46%, the garage and the deck were somehow put on without contacting the Township, the petitioner did not do this they, purchased the property in 2013, the additions were already on the record at the time but it is still 46% lot coverage; it is not an exceptional, or an extraordinary circumstance: it was already done it shouldn’t have been done, but it was done; the variance is not necessary for the preservation or enjoyment of a substantial property right: the number itself of 46% is an unbelievable lot coverage, and then to go to 49% and didn’t believe it was justified; it would not increase congestion, but it is too much, it may impair the public health and safety in some fashion.

Roll call vote was as follows: Walker, yes; Durham, yes; Painter, yes; Kosciierzynski; yes; Yaros, yes. Motion carried 5-0

D. AB-2020-19, Dale J. Long, 405 Shady Oaks St., 09-10-254-006
Chairman Yaros read the petitioners request for 3 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.01 (C)(1)(a)
1) A 10-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04 Zoned R-3
2) A 15% lot coverage variance above the maximum lot coverage of 25% for a total lot coverage of 40%

Article XXVII, Section 27.03 (C)(3)(b)
3) An 11-ft. water’s edge setback variance from the required 20-ft. for existing deck stairs to be 9-ft from the water’s edge

Mr. Dale Long and Mrs. Kim Long, the applicants, were present via the GoToMeeting program.

Chairman Yaros asked the petitioners to explain what they wanted to do. Mr. Long replied that two of the three variances they kind of walked into. They were there and they are trying to get in compliance with those. They are looking to extend the decking on the second level of the deck. They have a split deck, they have the main deck and then one that is a little lower down the hill, to increase that roughly 220-sq. ft. The challenges they have are the slope and the grade of the land. The space that they have unusable is about 30 x 30 feet, there is about a 25-ft. drop in that space, which effectively renders useless for living and improving their quality of life. The secondary thing is they live on Shady Oak St. and their property is the epitome of Shady Oaks. They have six large oak trees and they are trying to work within the framework of, without disrupting their lives and trying to work within that natural framework.

Chairman Yaros stated that their hardship is basically they have trees and a slope that is severe, going down to the lake. Chairman Yaros added that they have quite a bit of decking that is existing and they are going to redo that deck. Is that correct? Mrs. Kim Long replied that it is falling apart. Mr. Long said that it was in disrepair. They wanted to increase their livable space, and due to some of the restrictions and constraints with what they are working with they wanted to go for an appeal to increase their living space. Chairman Yaros asked if they were talking about the decking, right? Mr. Long replied yes; which would make the back of the land much more inhabitable. They wanted to leverage their property to its fullest advantage basically. Mrs. Long stated that they want to do something similar to what their neighbors have done. They have made it a little bit broader, and so they have the ability to create storage space underneath. They are looking to do what their neighbors have done, and they are not looking for anything extraordinary beyond either of the neighbors.
Chairman Yaros asked about the stairs going down to the water? Mr. Long replied that the stairs were already there when they arrived there.

Vice-Chairman Durham asked if this was another one where they have to agree with the first variance before they can proceed? Chairman Yaros answered that is correct.

Vice-Chairman Durham questioned the petitioner if variance number one and number three came with the property? Number two is the one that they are trying to build to now? Mrs. Long replied correct.

Secretary Koscierzynski said she noticed that where their house is located, she felt it was an exceptional and extraordinary circumstance, the way the street is and how the house was situated she really believed they have a Practical Difficulty just because of where they were located and because of the neighborhood. The houses on that block are older and were in a circle. She did some examination online, as well, of the property and she did believe that they do have a Practical Difficulty because of the neighborhood and the streets.

Alternate Board Member Painter stated that there was a lot of stuff on the property. Chairman Yaros agreed and noted that there were a couple of sheds and a walkway on the side.

Mrs. Long said that there are a couple of X’s on the map that they prepared, those items were removed and they are not on the property. Mr. Long said that there is only one shed on the property. Chairman Yaros asked which shed was left? Mr. Long replied between the garage and the main house. Alternate Board Member Painter stated that they don’t rely on the maps, they all go out and they look at it in person.

Chairman Yaros said they have a big wooden deck behind the house and they have a deck that is small going down to the lake. They want to put this 25×10-ft. shelf deck out there that is going to just about cover, width to width of their lot because their lot is only 40-ft. wide. They don’t have a lot of width in between. He felt that was a lot of coverage, they almost got all decking between their house and the lake. He said they are rebuilding part of an old deck, and knew that was part of it.

Mrs. Long said that they had a horticulturist come out and look at the area, and how they could expand their space, so as not to damage the roots of the trees and things of that nature. Because everything was healthy, they wanted to make sure that they were not going to do any damage to the trees. They had a couple of people come out because the retaining walls were falling apart, and to find out what they needed to do to fix this, it’s falling apart on both sides of the house. If the Board Members were there, they saw that. That needs to be repaired before they can even do the deck. They need to know how far back they can go without doing any damage to any of the roots of the trees. They don’t want to come back too far and dig too far into the ground to be able to create that storage space. Coming in from the lake, they are going out a little bit out. Mr. Long said that the anticipation is it would be the maximum, 25-ft. wide. It is probably going to be a little bit lower when they accommodate stairs. The four trees that are close to the decking area, they are working within those confines, which will not be closer than 8-10-ft. from the north and the south. Mr. Long said that he doesn’t want it wall to wall either. Mrs. Long stated that they will have a huge gap on the side for maintenance purposes. They did speak with both of their neighbors.

Chairman Yaros asked Building Official if there were any residents that wished to comment. Building Official Goodloe replied no.

Secretary Koscierzynski started that the Fire Marshal does not have a problem with this.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-19, Dale J. Long, 405 Shady Oak Street, 09-10-254-006, the petitioner is seeking three variances,
this motion is for the first one for Article 27, Section 27.01 (C)(1)(a); 1) a 10-ft. lot width variance from the required minimum 50-ft. lot width, be granted because the lot was this size when the petitioner bought it, they did nothing to make it worse, they cannot make it better, and would be unfair for them to stop moving forward momentum at this point.

**Roll call vote was as follows:** Painter, no; Kosciierzynski, yes; Durham, yes; Walker, yes; Yaros, yes. **Motion carried 4-1**

Moved by Board Member Walker, seconded by Alternate Board Member Painter, that in the matter of ZBA case AB-2020-19, Dale J. Long, 405 Shady Oaks St., 09-10-254-006, is seeking the second variance (the second variance of three) from Zoning Ordinance #78 Article VI, Section 6.04 Zoned R-3; 2) a 15% lot coverage variance above the maximum lot coverage of 25% for a total lot coverage of 40%, I would move that the petitioners request be denied because the petitioner did not demonstrate the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner did not show any Practical Difficulty due to the uniqueness of the property; the following are not exceptional or extraordinary circumstances, or conditions applicable to the property: this is just a request to increase a coverage from 25% to 40%; the variance is not necessary for the preservation and enjoyment of a substantial property right: because they still have the property rights, they just want to cover it up with a very large deck; it would not increase congestion or fire or public safety, or in any way impair the public health.

**Roll call vote was as follows:** Durham, yes; Walker, yes; Painter, yes; Kosciierzynski, yes; Yaros, yes. **Motion carried to deny 5-0**

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-19, Dale J. Long, 405 Shady Oaks St., 09-10-254-006, the petitioner is seeking the third variance (the third of three) from Zoning Ordinance #78 Article XXVII, Section 27.03 (C)(3)(b) 3) an 11-ft. water’s edge setback variance from the required 20-ft. for existing deck stairs to be 9-ft. from the water’s edge be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner did not show any Practical Difficulty due to the uniqueness of the property; the following are not exceptional or extraordinary circumstances, or conditions applicable to the property; the variance is not necessary for the preservation and enjoyment of a substantial property right; it would not increase congestion or fire or public safety, or in any way impair the public health.

**Roll call vote was as follows:** Kosciierzynski, yes; Walker, yes; Durham, no; Painter, yes; Yaros, yes. **Motion carried to deny 4-1**

6. **PUBLIC COMMENTS**

None

7. **COMMUNICATIONS**

Memo from Planning & Zoning Coordinator Harrison dated August 4, 2020, Dates which cases can be postponed to

Memo from Planning & Zoning Coordinator Harrison dated August 4, 2020, regarding canceling the August 24, 2020 meeting due to lack of agenda items.

Moved by Alternate Board Member Painter, seconded by Vice-Chairman Durham, to cancel the August 24, 2020 meeting due to lack of agenda items. **Roll call vote was as follows:** Walker, yes; Durham, yes; Kosciierzynski, yes; Painter, yes; Yaros, yes. **Motion carried 5-0**
8. COMMITTEE REPORTS
None

9. MEMBERS' COMMENTS
Board Member Walker stated that he had the honor of working the elections last Tuesday. If anyone knows young people in college or high school, that would like to do this, it is a great civil lesson.

10. ADJOURNMENT
Moved by Vice-Chairman Durham, seconded by Secretary Koscierzynski to adjourn the meeting at 8:20 pm.

Respectfully submitted,

Debra Walton
Planning & Zoning Coordinator
Charter Township of Orion

Zoning Board of Appeals Approval
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: August 27, 2020
SUBJECT: Staff Report for AB-2020-22, Shaun Lewis, 1398 Goldeneye, Re-hearing

Per Zoning Ordinance #78, Article 27, Section 29.04 (G), an applicant can request a re-hearing based on new evidence.

This applicant previously appeared on 7/27/2020 to request the following variances for a property within Bald Mountain Estates which was developed under a Consent Judgement:

1. A 4-ft rear yard setback variance from the required 20-ft. to build a deck 16-ft. from the rear property line.
2. A 15-ft rear yard setback variance from the required 35-ft. to build a roof over a portion of deck 20-ft. from the rear property line.
3. A 3.43% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot Coverage of 28.43%.

All 3 variances were denied, see attached minutes.

As per the aforementioned section of the Ordinance, the applicant has now submitted new evidence. Enclosed please find the following:

- A packet labeled new evidence
- Copies of the applicant’s July request and corresponding minutes

If you have any questions, please give me a call.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: August 27, 2020
RE: AB-2020-22, Shaun Lewis, 1398 Goldeneye, Re-Hearing

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

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

The Public Hearing variance language was verified by the petitioner and advertised to the public. The ZBA may lessen the requested deviation(s) but cannot grant more than what was advertised for ZBA case #AB-2020-12.

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-2020-22, Shaun Lewis, 1398 Goldeneve, 09-25-401-026, Re-Hearing, I would move that the petitioner’s request as presented in ZBA case #AB-2020-12 for the following:

1. A 4-ft rear yard setback variance from the required 20-ft. to build a deck 16-ft. from the rear property line.
2. A 15-ft rear yard setback variance from the required 35-ft. to build a roof over a portion of deck 20-ft. from the rear property line.
3. A 3.43% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot Coverage of 28.43%.

based on the following new evidence:

- A similar situation was approved in 2018 for 3379 Mallard Lane
- Correspondence from petitioner’s neighbors endorsing the request
- Correspondence from HOA President endorsing the request

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

Please be specific how the petitioner meets this criteria

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

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone:
3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

17
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-2020-22, Shaun Lewis, 1398 Goldeneve, 09-25-401-026, Re-
Hearing, I would move that the petitioner’s request as presented in ZBA case #AB-2020-12 for
the following:

1. A 4-ft rear yard setback variance from the required 20-ft. to build a deck 16-ft. from the
rear property line.

2. A 15-ft rear yard setback variance from the required 35-ft. to build a roof over a portion of
deck 20-ft. from the rear property line.

3. A 3.43% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot
Coverage of 28.43%.

based on the following new evidence:

- A similar situation was approved in 2018 for 3379 Mallard Lane
- Correspondence from petitioner’s neighbors endorsing the request
- Correspondence from HOA President endorsing the request

be denied because the petitioner did not demonstrate that the following standards for variances have
been met in this case in that they set forth facts which show that in this case:

Please be specific how the petitioner does not meet this criteria

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

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

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

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

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

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

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

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

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

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

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

5. Or, in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $200.00 for a residential application.

Regular meetings of the ZBA are held on the second and fourth Mondays of each month at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

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

APPLICANT
Name: Shaun & Lindsey Lewis
Address: 1398 Goldeneye Ln, Lake Orion, MI 48360
Phone: 248-515-7184 Cell: Same
Email: lewiss12@gmail.com

PROPERTY OWNER(S)
Name(s): Same as above
Address: Same as above
Phone: Same
Fax: 
Email: 

CONTACT PERSON FOR THIS REQUEST
Name: Shaun Lewis Phone: 248-515-7184 Email: lewiss12@gmail.com

SUBJECT PROPERTY
Address: 1398 Goldeneye Ln, Lake Orion, MI 48360 Sidwell Number: 09-25-401-026
Total Acreage: 2.8 Ac Length of Ownership by Current Property Owner: 2 Years, 3 Months

Does the owner have control over any properties adjoining this site? Yes/No: No
Zoning Ordinance
Allowance/Requirement 35' Rear Setback 15' for open structured roof
25% Max Lot Coverage 3.43% for max loft coverage

Page 1 of 3
We are requesting a re-hearing of case # PC-20-12 based on new evidence that a similar situation was approved in 2018. 3379 Mallard Lane built a full sunroom and staircase 16'. From the back of their house on a similar sized lot backing up to the same common area as us.

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. We are asking to build a deck with a partial roof to create a lanai for an outdoor living space that is protected from the elements.

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 home was built right to the rear setback, and unlike most of the homes in our neighborhood, we back up to common area without a home directly behind us.

3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: The roof would only be over a portion of the deck and would not impede in any way on any of our neighbors. We would still be allowing plenty of access for emergency purposes.

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: Many of the homes in our area already have covered decks or full sun rooms. 3379 Mallard Lane received a variance approval to add a full sun room beyond the rear yard setback, which also backs up to our common area.

5. Describe how the alleged practical difficulty has not been self-created. The builder built the house directly on the rear setback prior to us buying the home.

6. The topography of said land makes the setbacks impossible to meet because: Our home was built 0.32' from the rear setback.

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. A literal interpretation of the provisions of the ordinance would deprive us of the rights commonly enjoyed by other properties in the same district under the terms of this ordinance. The fact that the builder built our house right to the rear setback creates a practical difficulty for us to enjoy the rights that most of our neighbors have and with a look that conforms with our neighborhood like the ZBA allowed for our neighbors at 3379 Mallard Lane.
Case #: ________________________

8. Have there been any previous appeals involving this property? If so, when? □ Yes  ☑ Yes  7-27-20

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

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

Signature of Applicant: ___________________________ Date: 8-10-20

Print Name: Shaun Lewis

Signature of Property Owner: ___________________________ Date: 8-10-20

Print Name: Shaun Lewis

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: _______________
Article XXIX

Administrative Organization

G. Finality of Decision of the Zoning Board of Appeals.

All decisions and findings of the ZBA on any appeal, or any application for a variance, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review as by law may be provided. However, the ZBA may decide to re-hear a previously determined matter upon submission of an application with new evidence within thirty (30) days of the original decision.

H. Valid Period of ZBA Actions.

1. Permit to Construct.

No order of the ZBA permitting the erection or alteration of a building shall be valid for a period longer than one (1) year from the date of such order, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

2. Use Permit.

No order of the ZBA permitting a use of a building or premises shall be valid for a period longer than one (1) year from the date of such order unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

Section 29.04 – Enforcement Officer

A. Appointment by Township Board.

The provisions of this Ordinance shall be administered and enforced by the Orion Township Board through the Zoning Ordinance Enforcement Officer (hereafter called Enforcement Officer), and such other employees, inspectors, and appointees as the Township Board shall determine. In carrying out their designated duties, the Enforcement Officer and assistants shall not make changes in this Ordinance or vary the terms of this Ordinance.

The Enforcement Officer, as well as others involved with the administration and enforcement of this Ordinance, shall be appointed by the Township Board, upon the recommendation of the Township Supervisor, for such term and subject to such conditions and at such rate of compensation as the Township Board shall determine.

B. Jurisdiction and Duties.

The Enforcement Officer, and such deputies or assistants as shall be duly appointed, shall enforce this Ordinance and any additions thereto, and in furtherance of such authority, shall perform the following functions:

1. Record of Nonconformities.

The Enforcement Officer, and such assistants as shall be duly appointed, shall make a record of all nonconforming uses, structures, and lots existing on the effective date of this Ordinance.

This record shall be updated as conditions affecting nonconforming status change. The original copy of the record of all nonconformities shall be filed with the Orion Township Clerk. Other copies shall be kept in the Building Department, the Assessing Department, and the office of the Township Supervisor.

2. Maintain Records of this Ordinance.

The Enforcement Officer shall have possession of and maintain permanent and current records of this Ordinance, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, and applications.

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Revised 08/25/11

Charter Township of Orion Zoning Ordinance 78

Page 29 - 4
Lynn Harrison

From: Lynn Harrison
Sent: Tuesday, August 18, 2020 10:33 AM
To: Jeff Williams
Subject: ZBA Cases

Jeff, will you please take a look at these two cases. Generally, we just want to see if the fire department would have any noticeable issues should there be a fire on the property and being able to get to it.

Thank you,

Lynn Harrison
Coordinator
Planning & Zoning
2525 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5001
W: www.oriontownship.org
Jeffrey Williams, CFPS – Fire Marshal  
Orion Township Fire Department - Fire Prevention  
3365 Gregory Road Lake Orion, MI 48359  
Fax: 248.309.6993

From: Lynn Harrison <lharrison@oriontownship.org>  
Sent: Tuesday, August 18, 2020 10:33 AM  
To: Jeff Williams <jwilliams@oriontownship.org>  
Subject: ZBA Cases

Jeff, will you please take a look at these two cases. Generally, we just want to see if the fire department would have any noticeable issues should there be a fire on the property and being able to get to it.

Thank you,

Lynn Harrison  
Coordinator  
Planning & Zoning  
2525 Joslyn Road, Lake Orion, MI 48360  
O: 248.391.0304, ext. 5001  
W: www.oriontownship.org
Lot Coverage Calculations for ZBA Cases

AB-2020-12, Shaun & Lindsey Lewis, 1398 Goldeneye
(Case #, Address)

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<th>House</th>
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<td>= 72</td>
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<td>Total</td>
<td>= 3,468</td>
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Lot Coverage = \( \frac{3,468 \text{ sq. ft.}}{12,196.8 \text{ sq. ft.}} \times 25\% = 28.43\% \)

<table>
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<tr>
<th></th>
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<th>Lot Coverage</th>
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<th>Lot Size</th>
<th>Percentage</th>
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<td>= 3,468 sq. ft.</td>
<td></td>
<td>= 12,196.8 sq. ft.</td>
<td>= 28.43%</td>
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<td>= ______ sq. ft.</td>
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<td>= ______ sq. ft.</td>
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</tbody>
</table>
NEW EVIDENCE

- Correspondence from HOA President
- Correspondence from Neighbors
- Information on ZBA Case AB-2018-28, Jake & Crystal Mozal, 3379 Mallard Lane
- Plans for 3379 Mallard Lane
To Whom it May Concern,

Our names are Anthony and Jennifer Catalina and we live at 1406 Goldeneye Lane. We are writing this letter to show our full support as next door neighbors of the Lewis family, sharing the same common area. We have reviewed their plans to build a partially covered deck with an outdoor living space and we think that it would be a beautiful addition to our area.

Similar to their request, we have a sunroom on the back of our house that walks out onto an open elevated deck area and we feel that the sunroom portion is a really nice aspect used to enjoy the outdoors all year long. We understand the Lewis’ desire is to be able to enjoy their outdoor living space at least as a 3 season room that is protected from the elements, and we hope that you will allow them the same enjoyment that we have.

Thank you,

Anthony Catalina

Jennifer Catalina
8-26-20

Att Orion Township ZBA,

We are the Sacco family and we live at 1414 Goldeneye Lane sharing the common area with the Lewis family. We have reviewed the Lewis's plans to construct a deck with a portion being an outdoor living space covered by a roof and we love the idea. We have a sunroom and I believe it really adds to the look and feel of our living space. We think that the Lewis family should be able to create an addition like this as well with their plans for an outdoor living space.

Neighbors in full support,

Stephanie & Leo Sacco

8/27/2020
8/26/2020

To whom it may concern,

We live at 3379 Mallard Lane and we are writing to show our full support for the Lewis family to create a covered lanai by building a roof structure over part of their elevated deck. We went through the same process 2 years ago when we built our elevated sunroom addition with stairs going to our patio. This addition has created an immeasurable value for our family and we think that the same right should be given to the Lewis family.

We share the same common area as the Lewis' and have a view of the back of their house from our yard. When we were constructing our sunroom the Lewis' loved the idea of having a similar space that would be protected from the elements, but they wanted to have open walls to still enjoy the feeling of being outside. Their idea includes a fan under the roof for hotter days and to keep the mosquitoes away, a stone fireplace wall to keep warm on colder days, as well as a mounted TV and outdoor kitchen area to entertain and fully enjoy their outdoor living space. We hope that you will understand their vision as well and allow them the same happiness our family was given by the ZBA.

Thank you,

Jake & Crystal Mo zal

[Signature]

Crystal L Mo zal
Hi Lynn,

Here is another letter that the president of our HOA wrote on our behalf.

Shaun

Begin forwarded message:

From: Andres Mituta <andres.mituta@gm.com>
Date: August 16, 2020 at 3:14:45 PM EDT
To: Shaun Lewis <lewiss12@gmail.com>
Subject: Andres Mituta Bald Mountain HOA Board President - Lewis 2020

Lewis Family & Orion Township,

I have reviewed the Lewis family’s application for a variance in our community, and as an HOA board member, I find the application to personally look great, appealing for the community, and in line with our HOA guidelines.

This application personally resonates with me, in the covered deck design. Below I have an an attached images of our backyard, which includes a covered porch design. I believe a covered porch/deck design adds a premium look to a home (similar to brick or stone decks, over wood construction). The summer heat can be rather intense, and a covered design creates for a nice shaded retreat, especially given the infancy of our neighborhood, which lacks mature shade producing trees.

I am in favor and support the Lewis family application both as a resident as the head member of the HOA board.
To Whom It May Concern:

The purpose of this letter is to provide our complete support for the deck structure proposed to Orion Township by Shaun and Lindsay Lewis. We are next door neighbors of the Lewis family and would have a direct adjacent view of their proposed structure. We have reviewed the building plans in detail, and we feel strongly that the deck structure would provide aesthetic appeal, functionality, and value.

First, in a subdivision where all of the houses are built to resemble one another, the Lewis's deck structure would bring a unique and beautiful addition to the back of their house, greatly improving the backyard aesthetic.

Second, the proposed deck structure would be incredibly functional for the Lewis family. A roof would provide shade and privacy for their family—especially important in a subdivision that lacks mature trees. A large surface area would give them ample room to set up a table and outdoor furniture, while also giving them a nice and usable outdoor extension of their home.

Third, the proposed deck structure would provide great value to not only the Lewis's house, but to all of the surrounding homes as well. It would be a value-added addition to their home and yard which would indirectly add value to the neighborhood and township as a whole.

We feel that Orion Township should strongly reconsider the previous decision and approve this deck structure.

Thank you,

Brett and Lisa Smith
1390 Goldeneye Lane
Orion Township, MI 48360
To whom this may concern regarding Mr. & Mrs. Lewis’ intent to build a roofed attached structure to the north facing side of their home; my name is John Catalogna, residing at the house located at 3387 Mallard Ln, Lake Orion, MI 48360, a neighbor, who shares an on-viewing common area with Mr. & Mrs. Lewis’ back yard - support the request Mr. & Mrs. Lewis have to build a roofed structure onto the rear of their home. Mr. & Mrs. Mozal, my neighbor directly located to the east of my home, recently also added a roofed structure attached to the rear of their home and it causes no discontent nor noticeable obstruction of view otherwise accessible if the structure did not exist.

I hope that you will support the Lewis’ with their endeavor to construct and build a beautiful extension to their home which will provide value for their family and for our community.

Fig 1.: Mozal added roofed structure directly east of my home.

Fig 2: Lewis’ house view from my deck

Sincerely,
John Catalogna

[Signature] 8.12.20
variances from Zoning Ordinance No. 78, Article 27, Section 27.02 be revised as follows: 1) Subsection A.5.: A 2.1' height variance above the height of the principal structure of 13' to build a detached garage 15.1' in height, and 2) Subsection A.8 (Up to ½ acre); a 150 square foot variance above the allowed 750 square foot Maximum Floor Area of Detached Accessory Buildings to allow a 900 square foot detached garage to be built for a Maximum Floor Area of Detached Accessory buildings to be 900 square feet; be granted because the petitioner did demonstrate that the following standards for variances have been met in this case in that he set forth facts which show that in this case: the petitioner is without a garage and he would like to have a garage, has space for a garage and a parcel that can handle it; the petitioner does show the following Practical Difficulty: he does not have the ability to enjoy his property the way that he would like to; the following are exceptional or extraordinary circumstances: there is nothing really exceptional or extraordinary other than the fact that the petitioner would like to put additional space onto his property to increase his ability to enjoy his home; the variance is necessary for the preservation and enjoyment of a substantial property right; the granting of the variance or modification will not be materially detrimental to the public welfare or anyone around, there will be no negative impact; there has been no information from neighbors or anyone else who is unhappy; it will not impede adequate light or air, it will not unreasonably increase congestion in a public street; there is no increase in the danger of fire and it will not unreasonably diminish or impair established property values within the surrounding area.

Vice Chairman Durham amended the motion, Chairman Yaros re-supported, to add that the petitioner has agreed to remove the 49 sq. ft. plastic storage shed that is currently on the property and will be storing that equipment in the new garage; further, the petitioner stated that the garage will be used for private use only and not for commercial.

Chairman Yaros asked if there was anyone here to speak to this matter? There was not.

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

AB-2018-28, Jake & Crystal Mozel, 3379 Mallard Lane, 09-25-401-064
Chairman Yaros read the petitioner’s request as follows:

1. A 7.48' rear yard setback variance from the required 35' rear yard setback to build a sunroom and staircase 27.52' from the rear property line.

The petitioner was present.

Chairman Yaros asked why the petitioner was proposing the stairs in the back and not the side? The petitioner replied that if the stairs go out to the side, he would need to request a side yard setback variance. Also, having the staircase out the back, they would lead to the brick pavers. He wanted to make the pavers more accessible from the sunroom.

Board Member Koscieryzynski clarified that she saw the pavers when she visited the site and the area the petitioner had staked. She asked if the staked area was the sunroom? The petitioner replied, yes.

Trustee Flood noted this request is unique in that the property is part of the Bald Mountain consent judgement and doesn’t necessarily follow the setbacks of Zoning Ordinance #78. He commented that he saw a stormwater retention pond in the back and that this variance request wouldn’t “bother it” or would not impede the fire department from getting back behind the building. He therefore had no problem with the petitioner’s request.

Board Member Koscieryzynski asked if the petitioner’s property was part of an HOA, if so, did they have an issue with his request? The petitioner said there is an HOA and they had no issue.
Vice Chairman Durham asked if the petitioner knew if his property was the same shape and size as other properties around him that did not have a retention pond? The petitioner answered, that it is probably the same. His is a rectangle shape, most of the others are on a cul de sac and therefore pie shape.

Vice Chairman Durham then inquired, so the retention pond doesn’t have any bearing on this variance request? The petitioner said, no.

Chairman Yaros noted that this was a Pulte development. In his opinion, they try to maximize the number of lots and the size of the house they can get on those lots, not leaving any room for decks. If the petitioner wasn’t putting on a sunroom but was adding a deck, he would still need a variance. Now the ZBA has to try and help these residents out so they can have sunrooms or decks.

Board Member Koscierny noted that she drove around the neighborhood and saw several houses similar to what the petitioner is asking for. The petitioner concurred. Board Member Koscierny then asked why those people didn’t need to in for a variance? Chairman Yaros replied that their lots might be larger. The petitioner added that the sunrooms she was referring to were probably part of the house’s floor plan.

Chairman Yaros noted again that he believes the developer tries to maximize the size of the house on each lot and doesn’t leave room for a deck or sunroom – they leave a door wall that leads out to nowhere; just “hanging in the air”. The petitioner commented he was basically limited to only having a balcony.

Chairman Yaros asked if there was anyone here to speak to this matter? There was not.

Moved by Board Member Koscierny, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2018-26, Jake & Crystal Mozal, 3379 Mallard Lane, 09-25-401-064, the petitioner’s request for a non-use variance: a 7.48’ rear yard setback variance from the required 35’ rear yard setback to build a sunroom and staircase 27.52’ from the rear property line be granted because the petitioner did demonstrate that the following standards for variances have been met in this case in that he set forth facts which show that in this case, the following Practical Difficulty: the petitioner’s house does not have enough room for a deck or sunroom and the practical difficulty is that most people have decks in that area; 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: the petitioner is close to a retention pond and is not asking for a lot; 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: there are several houses in the area, practically the whole subdivision, that have something similar to what the petitioner is asking for; granting the variance or modification will not be materially detrimental to 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: most of the properties there have decks or sunrooms and the petitioner is not in anyway impeding to either side of his neighbors; further, based on the following findings of facts: granting this variance would not impair an adequate supply of light and air to adjacent properties; it would not unreasonably increase the congestion in public streets; it would not increase the danger of fire or endanger public safety: there is plenty of room on either side and in the front to get to area homes in case of an emergency; it would not: unreasonably diminish or impair established property values within the surrounding area due to: if anything, property values would probably go up with this improvement; or, in any other respect, impair the public health, safety, morals, or welfare of the inhabitants of the Township.

Board Member Koscierny amended the motion, Chairman Yaros re-supported, to include that there is an existing door wall that the proposed sunroom will be built off of, it isn’t any more than if it were a deck.
Discussion on the motion:

Board Member Walker commented that it was also his opinion that the developer will make more money with more homes they can put in. He was concerned that the ZBA may now get several more similar variance requests as they go forward. Everyone's decks will be touching.

Board Member Kosciierzynski said she thought about the same thing as she was going through the neighborhood and that this might set a precedence. Chairman Yaros said, it may or may not, it depends on the size of the lot and the size of the structure the resident wants to add. However, it makes no sense to have a door wall that goes into "infinity".

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

AB-2018-29, TeleSite Wireless/Orion Township, 3801 Giddings Road, 09-27-400-011
Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 3 variances from Zoning Ordinance No. 78, Article 27, Section 27.07 Subsection C.5:

1. A 62' property line setback variance from the required 182' property line setback to build a communication tower 120' from the South property line.
2. A 55' property line setback variance from the required 182' property line setback to build a communication tower 127' from the Southeast property line.
3. A 167.2' property line setback variance from the required 182' property line setback to build a communication tower 14.8' from the North property line.

Mr. Rob LaBelle, the attorney representing TowerCo and Verizon Wireless for this site, presented. He also introduced Mr. Jason Woodward who was with him from TowerCo.

Mr. LaBelle explained that they are trying to place a cell tower in a location that the Township Ordinance encourages - in an industrial zone and on a municipal owned property. This application would meet both. He noted they spent a lot of time with both the Planning Department and the Fire Department determining exactly where it would be best to place the tower and where it would service a coverage gap.

Chairman Yaros asked how much leeway is there for coverage? Mr. LaBelle replied, very little. He then explained how cell towers and cell phones work. He commented that this site is almost perfect except for the fact that the property is triangular and the tower ends up in an apex of that triangle - behind the parking lot, in an area that is not being used, and adjacent to a railroad. As far as practical difficulty - it is an unusually shaped piece of property and the Ordinance practically dictates where a cell tower has to be.

Mr. LaBelle went on to say that monopoles built to Verizon specs is (which this will be) - don't fall. They have been exposed to hurricanes, fires, vehicle hits; nothing takes them down. It would take an event of biblical proportions to take one down.

Mr. LaBelle explained that these (monopoles) are constructed so that they don't fall over like a tree that has been cut down. They crumble down onto themselves; this particular one in two places. The actual fall zone, if it were to fall at all, would be 50 ft. wide, not 150 ft. The Township Ordinance calls for 125% of the height of the tower (as the fall zone). They provided the Planning Commission and the planning consultant information that this monopole was indeed engineered to crumble down onto itself. He added to that, the impeccable safety record of these towers. He also noted, as it pertains to the
CHARTER TOWNSHIP OF ORION
ZONING BOARD OF APPEALS AGENDA
Regular Meeting – Monday, August 27th, 2018 – 7:00 P.M.
Orion Township Hall – 2525 Joslyn Road

1) OPEN MEETING

2) ROLL CALL

3) MINUTES
   A. August 13, 2018, Regular Meeting Minutes

4) AGENDA REVIEW AND APPROVAL

5) ZBA BUSINESS – 3 Cases
   A. AB-2018-27, Justin Light, 759 Heights Rd., 09-10-426-004
      The petitioner is requesting 3 variances from Zoning Ordinance No. 78, Article 27, Section 27.02:
      1. Subsection A.5.: A 2.1’ height variance above the height of the principal structure of 13’ to build a detached garage 15.1’ in height.
      2. Subsection A.8 (Up to to % acre): A 199 square foot variance above the allowed 750 square foot Maximum Floor Area of Detached Accessory Buildings to allow a 900 square foot detached garage to be built for a Maximum Floor Area of Detached Accessory buildings to be 949 square feet.
   B. AB-2018-28, Jake & Crystal Mozal, 3379 Mallard Lane, 09-25-401-064
      1. A 7.48’ rear yard setback variance from the required 35’ rear yard setback to build a sunroom and staircase 27.52’ from the rear property line.

Continued on Other Side
C. AB-2018-29, TeleSite Wireless/Orion Township, 3801 Giddings Road, 09-27-400-011

The petitioner is requesting 3 variances from Zoning Ordinance No. 78, Article 27, Section 27.07 Subsection C.5:
   1. A 62’ property line setback variance from the required 182’ property line setback to build a communication tower 120’ from the South property line.
   2. A 55’ property line setback variance from the required 182’ property line setback to build a communication tower 127’ from the Southeast property line.
   3. A 167.2’ property line setback variance from the required 182’ property line setback to build a communication tower 14.8’ from the North property line.

6) **PUBLIC COMMENT**

7) **COMMUNICATIONS**

8) **COMMITTEE REPORTS**

9) **MEMBERS' COMMENTS**

10) **ADJOURNMENT**

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In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact the Township at least seventy-two hours in advance of the meeting when requesting accommodations.
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $200.00 for a residential application.

Regular meetings of the ZBA are held on the second and fourth Mondays of each month at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

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

APPLICANT
Name: JAKE & CRYSTAL MOZAL
Address: 3379 MAULARD LN    City/State/Zip: LAKE ORION, MI 48360
Phone: 248-639-9629    Cell: 248-508-5780    Fax: 
Email: cmozal@gmail.com

PROPERTY OWNER(S)
Name (s): CRYSTAL MOZAL
Address: 3379 MAULARD LANE    City/State/Zip: LAKE ORION, MI 48360
Phone: 248-639-9629    Cell: 248-508-5780    Fax: 
Email: cmozal@gmail.com

CONTACT PERSON FOR THIS REQUEST
Name: CRYSTAL MOZAL    Phone: 248-508-5780    Email: cmozal@gmail.com

SUBJECT PROPERTY
Address: 3379 MAULARD LANE    Sidwell Number: 09-25-401-064
Total Acreage: 0.29 ACRES Length of Ownership by Current Property Owner: 0 Years, 11 Months

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

Zoning Ordinance
Allowance/Requirement: 35' REAR SETBACK    Deviation requested: 7.48'

Page 1 of 3
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **REQUESTING A VARIANCE TO THE REAR YARD SETBACK TO ALLOW FOR THE CONSTRUCTION OF 16' X 18' SUNROOM.**

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. **ADJACENT PROPERTY TO THE WEST HAS OVER 11'0" TO THEIR REAR YARD SETBACK. IT APPEARS THEY WENT THRU A SIMILAR PROCESS FOR THE CONSTRUCTION OF THEIR DECK.**

3. If the appeal is granted, please explain how the variance will will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: **THE PROPOSED SUNROOM WILL BE NO CLOSER TO EITHER OF THE ADJACENT HOMES THAN THE CURRENT HOME AND WILL NOT IMPACT THEIR VIEW OF THE REAR YARDS FOR THOSE HOMEOWNERS.**

4. Explain how the request is not consistent with other properties in the immediate area, please site examples if possible: **THERE ARE NO ENCLOSED DECKS OR SUNROOMS IN THE IMMEDIATE AREA, HOWEVER, THERE ARE MULTIPLE DECKS IN THE VICINITY.**

5. Describe how the alleged practical difficulty has not been self-created. **THE PROXIMITY OF THE RETENTION POND TO OUR PROPERTY IS THE REASON WHY WE ARE GOING THRU THIS PROCESS, AS WELL AS HOW CLOSE OUR HOME WAS BUILT TO THE REAR SETBACK.**

6. The topography of said land makes the setbacks impossible to meet because: **OUR HOME WAS BUILT 8.5' FROM THE REAR SETBACK.**

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. **SIMILAR TO ABOVE, THE 8.5' WOULD MAKE FOR A VERY SMALL ROOM, NOT CONducive TO THE SIZE OF OUR FAMILY OR THE HOME.**
Case #: 

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

9. Is this request the result of a Notice of Ordinance Violation?  
   [ ] Yes  [X] 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: 7/27/18

Print Name:  
Crystal Mozad

Signature of Property Owner:  
(must be original ink signature)  
Date: 7/27/18

Print Name:  
Crystal Mozad

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

OFFICE USE ONLY

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

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

Description of variance(s):  

Date Filed:  
Fee Paid:  
Receipt Number:  

Page 3 of 3

Version 5/10/18
INFORMATIONAL ONLY

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Joe R. Frey, Coordinator – Planning & Zoning

DATE: August 8, 2018

RE: ZBA Case 2018-28, Jake & Crystal Mozal

The above-mentioned case is asking for a variance from the Bald Mountain Consent Judgement. This judgement creates a different set of setbacks for homes. Homeowners in Bald Mountain can request a variance from the Zoning Board of Appeals. This is why it does not ask a variance from Ord. 78. When creating the motion, it is simply asking for “A 7.48’ rear yard setback variance from the required 35’ rear yard setback to build a sunroom and staircase 27.52’ from the rear property line.”

Please contact me with any questions, 248.391.0304 x5001
SC - Bald Mt.
Unit 64

PROJECT NOTES

Case AB-18-28

Fr+ 30'
Rn 36'
SW 25'
NE 5'

Rear setback to stairs is 27.52'

Need a 7.48' Variance
VARIANCE BEING REQUESTED BY HOMEOWNERS, JAKE & CRYSTAL MOZAL, FOR THE CONSTRUCTION OF AN ENCLOSED SUNROOM THAT WOULD EXCEED THE 35'-0" REAR YARD SETBACK BY 7.48'. ONLY RETENTION POND EXISTS AT THE REAR OF THE HOME AND THE CONSTRUCTION OF THIS SUNROOM WOULD NOT ENCROACH ON ANY EXISTING UTILITY EASEMENTS OR BE NEARER TO THE ADJACENT HOMES.

INFORMATION CONTAINED ON THIS PLAN PROVIDED BY DIFFIN-UMLOR, SURVEYOR/ENGINEER OF RECORD FOR THE PROPERTY.
EXISTING FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"

EXISTING WALK-OUT AREA PLAN
SCALE: 3/16" = 1'-0"
PROPOSED SUNROOM FLOOR PLAN

SCALE: 3/16" = 1'-0"

REFERENCES:

REFERENCE PHOTO 'B'
SCALE: NONE

REFERENCE PHOTO 'A'
SCALE: NONE

SUNROOM PLAN & ELEVATION SHOWN FOR PURPOSES OF VARIANCE APPROVAL - FURTHER DETAIL WOULD FOLLOW ONCE VARIANCE IS APPROVED. SIZE TO REMAIN AS INDICATED ON THESE PLANS.
PROPOSED SIDE ELEVATION
SCALE : 3/16" = 1'-0"

PROPOSED REAR ELEVATION
SCALE : 3/16" = 1'-0"

SUNROOM PLAN & ELEVATION
SHOWN FOR PURPOSES OF
VARIANCE APPROVAL - FURTHER
DETAIL WOULD FOLLOW ONCE
VARIANCE IS APPROVED. SIZE
TO REMAIN AS INDICATED ON
THESE PLANS.

EXISTING ROOF TO COVER
NEW SUNROOM

PROPOSED SUNROOM

NEW SUNROOM TO
UTILIZE SAME SIZING
& WINDOWS AS
EXISTING HOUSE

SUNROOM POLES TO
BE CLAD IN STONE
MATERIAL TO MATCH
EXISTING AT PATIO

TOP LANDING FOR STAIRS
DOWN TO GRADE

NEW SHINGLES TO
MATCH EXISTING

EXTEND EXISTING
ROOF TO COVER
NEW SUNROOM

PROPOSED SUNROOM -
NO CLOSER TO ADJACENT HOMES
APPLICANT’S JULY REQUEST
AB-2020-12
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: July 15, 2020

SUBJECT: AB-2020-12, Shaun & Lindsey Lewis

Please note this development was part of a Consent Judgement known as Bald Mountain Executive Lots and the setbacks are as follows:

- Front setback is 30-ft
- Rear setback is 35-ft
- For this site – the west side yard setback is 5-ft and the east side yard setback is 25-ft
- Lot Coverage is 25%
- Decks follow what is dictated in Ordinance #78 (rear yard setback of 20-ft)

The distance from the rear property line to the proposed deck is measured to the furthest point out which is the stairs.

Also, because a portion of the deck is covered with a roof which extends off the house, it has to meet the rear yard setback of 35-ft.

The lot coverage calculation has been included in the packet documents.
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY JULY 27, 2020 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, July 27, 2020, at 7:00 pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.
*Please note this meeting was done virtually via a “Go to Meeting” #914-793-997*

ZBA MEMBERS PRESENT:
Loren Yaros, Chairman
Dan Durham, Vice-Chairman
Don Walker, PC Rep to ZBA
Lucy Koscieryznski, Secretary
Mary Painter, Board Member

ZBA MEMBER ABSENT:
Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Shaun Lewis
Pedro Montes
Michael Graft
Scott Leigh
Stephanie Decker

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

2. ROLL CALL
As noted

3. MINUTES

A. 6-22-2020, ZBA Regular Meeting Minutes
Moved by Secretary Koscieryznski, seconded by Commissioner Walker, to approve the minutes as presented. Motion Carried

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

5. ZBA BUSINESS

A. AB-2020-12, Shaun & Lindsay Lewis, 1398 Goldeneve, 09-25-401-026
Chairman Yaros read the petitioner’s request as follows:
The petitioner is requesting 3 variances from Zoning Ordinance No. 78:
Zoned SC Bald Mountain Executive Lot 26

1. A 4-ft. rear yard setback variance from the required 20-ft. to build a deck 16-ft. from the rear property line.

2. A 15-ft. rear yard setback variance from the required 35-ft. to build a roof over a portion of deck 20-ft. from the rear property line.
3. A 3.43% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot Coverage of 28.43%.

Shaun Lewis, the applicant, was present via the GoToMeeting program.

Chairman Yaros asked if the applicant built the home? Mr. Lewis replied yes.

Chairman Yaros noted that the applicant has built a new house, in a new sub, and has built to the maximum lot line. Chairman Yaros asked the applicant why did he build the house all the way back to the lot line, knowing that they would need a deck for a door wall? Mr. Lewis replied that they did not get to choose the location of the house on the lot. They had taken over an existing subfloor, it was a spec home. They had control of the building from the subfloor up. The builder had already built their sub floor right to the rear setback line.

Chairman Yaros stated that he looked at a lot of the houses that have these little sunrooms on the back decks, and they are all within the property lines. He wondered why the builder built the home right to the lot line? Mr. Lewis replied that he didn’t know. He added that when they did notice it, initially, and they asked the builder about it, they rushed it off stating that it shouldn’t be a problem. They have an elevated doorway, so they have to walk out onto a deck. They found out later that they had to get approvals to be able to do that. Chairman Yaros said they were wrong the Board doesn’t have to give it.

Chairman Yaros recognized that because of the door wall, they need a deck. He questioned why do they need the covered area? Mr. Lewis replied that they are looking for something that is shaded when they are outside. They were not going to have walls on the structure but they want to create a shade area, so their family could hang out, they don’t have much shade in the area. It was important for his family to hang out without being exposed to the sun.

Chairman Yaros stated that they could do that with an automated awning if that is all they are looking for is shade. Mr. Lewis said that he understood that but wanted to be more in line with the properties in the area, and something that is long-lasting.

Secretary Kosciierzynski asked the other Board Members if the Practical Difficulty can be that they can’t really use their patio door without a deck. Chairman Yaros replied yes, that would be a Practical Difficulty, for a deck. With a deck, they can go 20-ft. off the lot line, not to 35-ft. with a covered structure.

Secretary Kosciierzynski said that she drove around, and she saw one house with a deck that was totally enclosed like a sunroom. She noted that a lot of the houses there have decks with roofs or something like that.

Chairman Yaros noted that none of those homes needed a variance, so they must have been within the lot line.

Secretary Kosciierzynski said that Pulte has put these people in a position where they have to do this.

Mr. Lewis commented that their neighbor directly behind them, they built out the same structure that they are looking at, they are the neighbor that enclosed all four sides there. They requested it and got an approval on that variance last year. They were in the same position where they couldn’t extend out.

Vice-Chairman Durham noted that there are dimensional issues that were part of a consent judgment. He asked how does that affect this gentleman’s need for a variance? Building Official Goodloe replied that he was not aware of the consent judgment. He noted that the whole thing is about the roof, the
deck is typically allowed to encroach. Is the roof, and is that going to be an issue for the setback and rear? If it didn't have a roof it basically would almost be compliant. If other ones in the area are pretty similar, the location of it was put right there by Pulte, knowing that they would need a deck in the future so, it is almost a foregone conclusion. He was not 100% brought up to speed on the consent judgment, the Planning & Zoning Director Tammy Girling handles all the developing details.

Chairman Yaros asked if the consent judgment was concerning the deck or the cover? Vice-Chairman Durham stated that the consent judgment states that the dimensions of the consent judgment are, the front yard setback is 30-ft., the rear setback is 35-ft., and the west side yard setback is 5-ft and the east side yard setback is 25-ft., that is what is dictated in Ordinance #78.

Chairman Yaros said he did not have a problem with the deck. He questioned if they are talking about a covering, then they are talking about 35-ft. They are talking about a 15-ft. rear yard setback instead of the 4-ft. He stated to him, a brand-new house, and a brand-new sub, they are asked to grant a 15-ft. variance for a covering, when they can do a canopy and get the 4-ft. rear yard setback, and put the 16-ft. deck on. If they want shade, they can get awning. Then they don’t have to go in with 15-yards, with the whole subdivision, because they don’t know how many of these homes are in there.

Chairman Yaros said he thought it was a shame that the builder builds it to the lot line, then forces people to come before them for a variance. If they would have built it within the lot line, they wouldn't need it.

Board Member Painter said that is something that has bugged here for the last 20-years. They are put in this position of correcting someone else’s mistakes. She didn’t know whom it needs to start with? Maybe the Planning Commission when they start planning the subdivisions in the first place. It has been a problem forever. She didn’t see how they continue to get away with something like this and then have the resident have to come and ask for a variance.

Building Official Goodloe noted that the consent judgment sets the set-backs. They were looking for a 12-ft. deck to be on these properties. Because they are able to encroach into the rear yard setback 15-ft.

Board Member Walker stated that in the consent judgment, it seemed to him that it was in there for the entire subdivision. He asked if this was the old Bald Mountain Golf Course? Chairman Yaros replied yes.

Board Member Walker said those setbacks are within that consent judgment. Chairman Yaros said that it does not change the request.

Board Member Walker noted that as long as he has been on the Board, they have never allowed someone to put a roof on a deck.

Chairman Yaros said the only problem he had was granting the 15-ft. for a roof. If they grant this variance, they will have everyone asking for this, and it defeats the whole variance.

Secretary Kosciierzynski commented that if they grant this everyone in the neighborhood is going to want this. If the petitioner would work with them, and if he put in an awning, then it doesn’t need to come before the board.

Secretary Kosciierzynski asked if the petitioner would be willing to remove the 15-ft. rear yard setback variance and just put in an awning? Mr. Lewis replied that the roof portion is a very important aspect of it. They hoped that eventually, they could have some sort of screen or something to protect them from bugs and stuff in the area. There are a lot of ticks in this area, so they were hoping that they could do
that at some point. Just doing the awning would not allow for them to do that, as well as, it doesn't really feel like it coincides with the look in the area. The neighbor directly behind them, they went before the board last year, they are on Mallard Lane for the same position that they were in. They both back up to common area so there is not a house directly behind them that would affect. He thought most of the houses in the area back up to other houses, so they don't have that same situation as they do. In their situation, that roof structure would be important.

Chairman Yaros asked Building Official Goodloe if the 3.43% variance, for Maximum lot coverage, is that because of the covered deck, correct? Building Official Goodloe replied that is because of the deck in general. He said that the roof does not matter. Chairman Yaros asked if they would still need the variance even if they pulled off the cover of the deck? Building Official Goodloe replied, correct.

Moved by Vice-Chairman Durham, seconded by Secretary Kosciertzynski, that in the matter of AB-2020-12, Shaun & Lindsey Lewis, 1398 Goldeneye, 09-25-401-026, I would move that the petitioner's request for three variances from Zoning Ordinance No. 78, Zoned SC Bald Mountain Executive Lot 26, 1) a 4-ft. rear yard setback variance from the required 20-ft. to build a deck 16-ft. from the rear property line, 2) a 15-ft. rear yard setback variance from the required 35-ft. to build a roof over a portion of deck 20-ft. from the rear property line, 3) a 3.43% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot Coverage of 28.43% be granted because the petitioner did demonstrate that the following standards for variances have been met in this case: and he did show he has several factors; there is a door on a second floor that he wants to build his deck in front of; he did not spec the house back to the lot line, that was done by someone else, and he got stuck with it; he does back up to a common area, and it is 20-ft. from the lot the line still, after this is done; he has a small lot with a lot of house and the house was basically built to lot, right out; the following are exceptional or extraordinary circumstances: his lot, his house, and where his house was dropped, and the fact he has a door to nowhere on the second floor; he wants to put in a deck, and it would be a reasonable expectation to want a small roof, he does not propose to cover the whole thing; the following are exceptional or extraordinary circumstances or conditions: he had covered those; the granting of the variance or modification will not be materially detrimental to the public welfare, safety, it will not be injurious to anything; it will not impair anything or cause great danger to other structures or any citizens; further based on the findings of facts granting this variance will not: impair anything or congest public streets, it would stay just the way it is.

Roll call vote was as follows: Walker, no; Durham, yes; Kosciertzynski, yes; Painter, no; Yaros, no. Motion failed 2-3

B. AB-2020-13, Michael Graft/Wildfire Signs, Bald Mountain Regional Medical Complex, 1375 S. Lapeer Rd., 09-14-251-004

Chairman read the petitioners request for 1 variance from Sign Ordinance 153: Non-Residential Ground Sign Zoned RB:

1. A 10-ft. road right-of-way setback variance from the required 20-ft. to erect a ground sign 10-ft. from the road right-of-way.

Michael Graft the applicant, was present via the GoToMeeting program.

Chairman Yaros stated that he could not see the sign that is there now at all, and drove by it the first time.

Board Member Painter said that the shrubs and trees along the road really hinder seeing the sign. She thought that some of the shrubs could be toned back. She added that the sign should be moved someplace where there is better viewing from the road.
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $200.00 for a residential application.

Regular meetings of the ZBA are held on the second and fourth Mondays of each month at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

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

APPLICANT
Name: Shawn & Lindsey Lewis
Address: 1398 Goldeneve Ln
City/State/Zip: Lake Orion / MI / 48360
Phone: 248-515-7184
Cell: Same
Fax: —
Email: lewiss12@gmail.com

PROPERTY OWNER(S)
Name(s): Same as above
Address: __________________________ City/State/Zip: __________________________
Phone: __________________________ Cell: __________________________ Fax: __________________________
Email: __________________________

CONTACT PERSON FOR THIS REQUEST
Name: Shawn Lewis
Phone: 248-515-7184
Email: lewiss12@gmail.com

SUBJECT PROPERTY
Address: 1398 Goldeneve Ln
Sidewell Number: 09-75-401-026
Total Acreage: 2.28 Ac
Length of Ownership by Current Property Owner: 2 Years, 1 Months

Does the owner have control over any properties adjoining this site? NO.
Zoning Ordinance
Allowance/Requirement
Deviation requested 15', deviation for roof

Page 1 of 3
Version 3/10/18
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **Construction of a deck, with a portion of it having a roof. Deck being built in past rear setback, requiring variance.**

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. **Home was built on rear setback by the builder.**

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. **Roof only to be on a section of the deck, which will not impact adjacent properties.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please cite examples if possible. **Other properties also have decks and screened in porches/sunrooms. 3379 Mallard Ln.**

5. Describe how the alleged practical difficulty has not been self-created. **Builder built house directly on the rear setback.**

6. The topography of said land makes the setbacks impossible to meet because: **Same as above, builder built directly on rear setback.**

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. **Same as #5 & #6.**
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: 6-11-20

Print Name:  **Shaw Lewis**

**Signature of Property Owner:**  
(must be original ink signature)  
Date: 6-11-20

Print Name:  **Shaw Lewis**

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:  Reciept Number:  

Page 3 of 3

Version 3/10/18
Bald Mountain Phase 1 - Executive Lots

All information verified by Carly & Tammy 9/13/16

**Typical Unit Setbacks:**
- Front 30’
- Rear 35’
- Side 25’ and 5’

*See attached chart for assigned setbacks per lot number.

**Lot Coverage:** 25%

**Decks:** Decks allowed following the Zoning Ordinance.

**Pools:** Pools allowed in rear yard following the Zoning Ordinance. Note: the bylaws allow only in-ground pools and must have association approval.

**Variances:** Property owners may request variances from the ZBA.
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AB-2020-12
Zoned SC
Bald Mountain Executive Lot 26

Approx lot size 12,318.5 sq. ft.
25% = 3,079.63 sq. ft.
3,049.2

House 2,055sf
Porch 72sf
Attached Garage 658sf
Proposed Deck 683sf

3,468sf or 28.43%

Required east side yard setback 25' ok
Required west side yard setback 5' ok
Required rear yard setback for a deck 20' will be 16', needs a 4' variance

Required rear yard setback for a roof (part of the house) 35' will be 20', needs a 15' variance

An asking for a larger lot coverage variance because the actual lot size at this time was unknown.
The following projections shall be permitted when located in the required yards as specified:

1. **In all yards.** Awnings and canopies; steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting twenty-four (24) inches or less into the yard; approved free-standing signs; arbors and trellises; flagpoles; window unit air conditioners projecting not more than eighteen (18) inches into the required yard; and fences or walls, subject to applicable height restrictions.

2. **In front yards.** Open, paved terraces not over three (3) feet above the average grade of the adjoining ground and not projecting farther than ten (10) feet beyond the building, but not including roofed-over terraces or porches; one-story bay windows and other architectural features projecting three (3) feet or less into the yards; and, overhanging eaves and gutters projecting three (3) feet or less into the yard.

3. **In rear yards.**
   a. Balconies; fallout shelters; breezeways; open porches; one-story bay windows and other architectural features projecting three (3) feet or less into the yard; and overhanging eaves or gutters projecting three (3) feet or less into the yard.
   b. **Decks may be permitted to project into a required rear yard when the following conditions are met:**
      (amended 06.15.87 02.06.97)
      i. In no instance shall a deck surface be more than fourteen (14) feet above ground level.
      ii. Decks shall in no instance be closer than twenty (20) feet to a rear lot line.
      iii. A deck shall be not fewer than twenty (20) feet to the shoreline of a lake or ten (10) feet to the edge of a regulated wetland.
      iv. Setbacks for decks shall be measured from the leading edge of the deck surface.

4. **In side yards.** One-story bay windows and other architectural features projecting into the required yard by not more than two (2) inches for each one (1) foot width of side yard; and, overhanging eaves and gutters projecting eighteen (18) inches or less into the yard.

D. **Required Yards - Existing Buildings.**

   No yards, now or hereafter provided for a building existing on the effective date of this Ordinance, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Ordinance for equivalent new construction.

E. **Location of Required Open Space.**

   All yards and other open spaces allocated to a building or group of buildings shall be located on the same zoning lot as such building or group of buildings.

F. **Variances to Yard Regulations.**

   The Zoning Board of Appeals may modify yard regulations by granting a variance for individual cases where literal enforcement of the provisions of the Ordinance would not be reasonably possible or would result in unnecessary hardship. Examples where such variances from yard regulations would be appropriate include:
   1. A planned development in a multiple-family district;
   2. Cases where the applicability of the regulations on lots existing and of record at the time this Ordinance became effective cannot be determined.
Article XXVII

27.02 Buildings, Structures, and Uses

to run away from the walls of the building to a natural or established drainage course. Alteration to the drainage course shall not create a drainage problem for the adjacent property owners.

2. Where there is a sloping earth grade beginning at the curb, sidewalk, or roadway, the drainage shall be established and maintained to the finish grade line at the building front. A sloping grade away from the rear and side wall of the building shall be established and maintained to a line not less than twenty (20) feet from such walls.

3. The height of the finish grade line of any building shall be generally maintained not less than eight (8) inches above the average curb or crown of the road, or at such level as may be approved in writing by the Ordinance Enforcement Officer.

G. Signs. (amended 07 16 18)

1. All signs shall conform to the location, size, height, number, and other standards set forth in the Orion Township Sign Ordinance, Ordinance No. 153. (amended 02 21 06)

2. Signs shall conform to all other applicable Township Ordinances, including the Township Building Code.

3. For the purposes of public safety, the street number of every building or structure which has an assigned street address shall be prominently displayed on a side of the building facing the street. Street address numbers shall be at least three (3) inches in height on residential buildings, and at least five (5) inches in height on all non-residential buildings and structures.

II. Basement Residency.

Basement residency is expressly prohibited in this Township. This provision shall not be construed to prohibit earth-sheltered homes, as defined in Article II of this Ordinance.


For the purposes of public safety and fire protection, all buildings and structures shall have water supply for fire fighting that will provide a reasonable degree of protection to life and property in accordance with Standard on Water Supplies for Suburban and Rural Fire Fighting, NFPA 1231-1975, as amended. In accordance with NFPA 1231-1975, required water may be supplied from rivers, streams, irrigation canals, lakes, ponds, wells, cisterns, swimming pools, livestock watering tanks, tankers, or a combination of sources which meet minimum criteria for quantity and accessibility.

Section 27.03 – Yard and Bulk Requirements

A. Minimum Lot Size

Every residential building hereafter erected on a lot or parcel of land created subsequent to the effective date of this Ordinance shall provide a lot or parcel of land in accordance with the lot size requirements of the district within which it is located. On lots of record that were platted prior to the effective date of this Ordinance, single-family residential dwellings may be established regardless of the size of the lot, provided all other requirements of this Ordinance are complied with. Where two (2) adjoining lots are under the same ownership, and said two (2) lots are individually smaller than the lot size requirements of the said district in which they are located, said two (2) lots shall be considered one (1) lot for the purposes of this section.

B. Lots Adjoining Alleys.

One-half (1/2) of the width of an abutting alley or lane shall be considered a part of the lot for the purposes of determining compliance with lot area requirements of this Ordinance.

C. Projections Into Required Yards.
SUNROOM PLAN & ELEVATION SHOWN FOR PURPOSES OF VARIANCE APPROVAL. FURTHER DETAIL WOULD FOLLOW ONCE VARIANCE IS APPROVED. SIZE TO REMAIN AS INDICATED ON THESE PLANS.
Duplicate
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: August 26, 2020
SUBJECT: Staff Report for AB-2020-20, Douglas Featherston, 2500 Flintridge

The applicant wants to build a detached garage behind his home. The proposed detached garage meets all setback, maximum floor area and lot coverage requirements however it will be taller than the principal structure, the house.

Per Zoning Ordinance 78, Section 27.02 (A)(5) second paragraph – a detached accessory building in a residential district shall not exceed the height of the principal building unless it is located at least 150 feet away. In this case, the proposed detached garage will be less than 150-ft away from the house.

Please note that per Orion Township standards - the height of a house or structure is taken from its mid-point. The applicant’s measurements are those mid-points.

If you have any questions, please give me a call.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: August 3, 2020

RE: AB-2020-20, Douglas Featherston, 2500 Flintridge

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # AB-2020-20, Douglas Featherston, 2500 Flintridge, 09-29-429-021

The petitioner is requesting 1 variance from Zoning Ordinance #78

Article XXVII, Section 27.02(A)(5) – Zoned R-2

1. A 2.3-ft variance above the 11.2-ft. mid-point measurement of the principal structure, to build a detached garage that measures 13.5-ft. to its mid-point.

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

Please be specific how the petitioner meets this criteria

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

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

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

__________________________
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76
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-2020-20, Douglas Featherston, 2500 Flintridge, 09-29-429-021

The petitioner is requesting 1 variance from Zoning Ordinance #78

Article XXVII, Section 27.02(A)(5) – Zoned R-2

1. A 2.3-ft variance above the 11.2-ft. mid-point measurement of the principal structure, to
build a detached garage that measures 13.5-ft. to its mid-point.

Please be specific how the petitioner does not meet this criteria

be denied because the petitioner did not demonstrate that the following standards for variances have
been met in this case in that they set forth facts which show that in this case:

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

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

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

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

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

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

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

____________________________________________________________________________________

____________________________________________________________________________________

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

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

   

   

   

   

   

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

   

   

   

   

   

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

   

   

   

   

   

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

   

   

   

   

   

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

   

   

   

   

   

79
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $200.00 for a residential application.

Regular meetings of the ZBA are held on the second and fourth Mondays of each month at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

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

APPLICANT
Name: Douglas Featherston
Address: 2500 Frintridge City/State/Zip: Lake Orion MI 48359
Phone: ___________________________ Cell: 248-736-0844 Fax: ___________________________
Email: ktnservice@aol.com

PROPERTY OWNER(S)
Name(s): Douglas Featherston Tracey Featherston
Address: 2500 Frintridge City/State/Zip: Lake Orion MI 48359
Phone: ___________________________ Cell: 248-736-0844 Fax: ___________________________
Email: ktnservice@aol.com

CONTACT PERSON FOR THIS REQUEST
Name: Douglas Featherston Phone: 248-736-0844 Email: ktnservice@aol.com

SUBJECT PROPERTY
Address: 2500 Frintridge Sidwell Number: 09-89-082-021
Total Acreage: 25 Length of Ownership by Current Property Owner: ___________________________ Years, ___________________________ Months
Does the owner have control over any properties adjoining this site? NO
Zoning Ordinance Allowance/Requirement Deviation requested ___________________________
Case #: 

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. Height Variance

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. Non-Conforming Garage Height NOT UNCOMMON FOR SUBDIVISION

3. If the appeal is granted, please explain how the variance will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: Height of Garage WILL NOT AFFECT NEIGHBORING HOMES OR VALUES

4. Explain how the request is not consistent with other properties in the immediate area, please site examples if possible: Height Variance NOT UNCOMMON IN SUB 15: 2493 Flintridge, 3672 Greatsborough, 3395 Charlie

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

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

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. N/A
Case #: ______________

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

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:  Douglas Featherston  Date: 07-22-2020
Print Name:  Douglas Featherston

Signature of Property Owner:  Douglas Featherston  Date: 07-22-2020
Print Name:  Douglas Featherston

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:  __________________________

Version 06-25-15
AB-2020-20 2500 Flintridge Lot

1.222 acres or 9,670.32 ft²
2,417.58 ft² = 25%

Side yard setbacks of 10’ - OK
Rear yard setback of 10’ - OK
Front yard setback - OK

Lot Coverage

House 925
Prop. Garage 744 Floor area OK - existing
Under to be removed
1,669 ft² Lot Coverage OK

Height

House 11.2’ at its mid-point
Prop. Garage 13.5’ at its mid-point

2.3’ Variance
The fire department has reviewed the proposed documentation and has no concerns.

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

From: Lynn Harrison <lharrison@oriontownship.org>
Sent: Tuesday, August 18, 2020 10:33 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: ZBA Cases

Jeff, will you please take a look at these two cases. Generally, we just want to see if the fire department would have any noticeable issues should there be a fire on the property and being able to get to it.

Thank you,
construction on the rebuilding project is begun and diligently carried on within a reasonable time after the excavation, demolition, or removal of the thereto 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)
To find the midpoint of the roof you measure from the start of the roof to the peak. Half of that measurement is the midpoint.

Take the 3 Measurements on all sides of the home and average to get the Height of the Home.

To find the midpoint of the roof you measure from the start of the roof to the peak. Half of that measurement is the midpoint.
2500 Flintridge Garage

Dimensions:
- Length: 24'
- Height: 12'
- Apex height: 13.5'
- Width: 15'
2500 Flintridge House
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: August 27, 2020

SUBJECT: Staff Report for AB-2020-21, Northern Sign/Ashley Home Store Sign

The new Ashley Home Store located in the Baldwin Commons Plaza is requesting a second wall sign for their exterior elevation that faces I-75. They received approval on 6/15/2020 for 1 wall sign on the front elevation. The Sign Ordinance only allows for 1 wall sign that is either 10% of the total façade area or 200 sq. ft., whichever is less.

The existing sign is 195.25-sq. ft., the second sign they want to add is 247.12-sq. ft. – therefore they need a variance for 1 additional wall sign and for total sign area above the total 200-sq. ft. maximum allowed.

Side Note: the store has also requested the name of their store be added to the tall plaza sign along I-75 – that sign is located in Auburn Hills and they were informed they would need approval from them for that modification.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: August 27, 2020

RE: AB-2020-21, Northern Sign/Ashley Home Store Sign, 4936 Baldwin (Baldwin Commons)

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2020-21, Northern Sign/Ashley Home Store Sign, 4936 Baldwin, 09-32-351-024, I would move that the petitioner’s request for:

Two (2) variances from Sign Ordinance 153:

Section 7 Non-Residential Zoned Areas Wall Signs Zoned GB:

1. A variance to allow 1 additional wall sign to a business with an existing wall sign for a total of 2 wall signs.
2. A 242.38-sq. ft. variance above the allowed 200 sq. ft. maximum for 2 wall signs totaling 442.38-sq. ft.

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

Please be specific how the petitioner meets this criteria

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

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

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts:
4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings:

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2020-21, Northern Sign/Ashley Home Store Sign, 4936 Baldwin, 09-32-351-024. I would move that the petitioner’s request for:

Two (2) variances from Sign Ordinance 153:

Section 7 Non-Residential Zoned Areas Wall Signs Zoned GB:

1. A variance to allow 1 additional wall sign to a business with an existing wall sign for a total of 2 wall signs.

2. A 242.38-sq. ft. variance above the allowed 200 sq. ft. maximum for 2 wall signs totaling 442.38-sq. ft.

Please be specific how the petitioner does not meet this criteria

be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

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

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

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

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

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

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

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

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

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

5. Or, In any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Commercial

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $500.00 for a commercial application.

Regular meetings of the ZBA are held on the second and fourth Mondays of each month at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

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

APPLICANT
Name: Northern Sign Co.
Address: 2181 E. Walton Blvd
City/State/Zip: Auburn Hills, MI 48326
Phone: (248) 333-7733
Fax: 248-333-7938
Email: maryellen@northernSign.com

PROPERTY OWNER(S)
Name(s): Baldwin Commons, LLC, c/o KIRC
Address: 4936 Baldwin Rd
City/State/Zip: Orion Twp, Michigan 48359
Phone: 248-780-0357
Fax: 248-780-0357
Email: lana@kirc.com

CONTACT PERSON FOR THIS REQUEST
Name: Mary Ellen Markley
Phone: 248-333-7733
Email: maryellen@northernSign.com

SUBJECT PROPERTY
Address: 4936 Baldwin Rd
Sidewall Number(s): 09-32, 351-024

Total Acreage: 47.29 Acres
Length of Ownership by Current Property Owner: 23 Years, __________ Months

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

Ordinance Allowance/Requirement

Case #: GB

Deviations Requested
List additional ordinance requirements and deviations on a separate page

Page 1 of 3
COMMERCIAL VARIANCE

1. Describe the nature of the request. To allow a sign to be installed on the rear (south) elevation of the building.

2. Describe how the request results from special or unique circumstances particular to the property, which are not applicable to other properties in the surrounding area. The elevation has a special circumstance as it faces Hwy 75 as well as a large parking lot to give the building exposure.

3. If the appeal is granted, please explain how the variance will not be detrimental to the public health, safety and welfare, or to other properties or improvements in the Township. This variance will not be detrimental as the sign will face a large parking lot as well as Hwy 75.

4. Explain how the request is not consistent with other properties in the immediate area, please cite examples if possible. In the same shopping center, Panera Bread (4804 S. Baldwin Rd) has 2 wall signs installed on their portion of the building.

5. Describe how the alleged practical difficulty has not been self-created. This is only an appeal for a variance to the current city sign code. The current code does not allow a second sign.

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. The purpose of this variance is to enhance the exposure that this location will have to the general public.
Case #: 

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

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

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

Signature of Applicant: [Signature]
Print Name: Richard Kielbasa
Date: 8/5/2020

Property Owner:
If applicable: I the property owner, hereby give permission to
Signature of Property Owner: [Signature]
Print Name: Khaled Alakhras, Authorized Agent for Owner
Date: 8/5/20

OFFICE USE ONLY

Zoning Classification of property: ____________________________
Adjacent Zoning: N. S. E. W.
Total Square Footage of Principal Structure: ____________________________
Total Square Footage of Accessory Structure(s): ____________________________

Description of variance(s):

Date Filed: ____________________________ Fee Paid: ____________________________ Receipt Number: ____________________________
AB-2020-21

Sign A = 195.25 Approved

Sign B
108" x 329.5" = 35,586" ÷ 144 = 247.13°

Variance needed for 1 additional Sign
3° variance for 242.38° above the allowed 240°

To allow a total of 442.38°
<table>
<thead>
<tr>
<th>Option Phase</th>
<th>Final</th>
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<tbody>
<tr>
<td>Customer</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td>4935 Balairn Road, Onion Charter Township, MI 48359</td>
</tr>
</tbody>
</table>

**Channel Letters**

- DASHLEY
- HOMESTORE

**Dimensions**

- Height: 3”
- Width: 18”
- Length: 176”
- Depth: 152”
- Height: 161”
WILL BE REMOVING WALL PACK LIGHT BEFORE INSTALLATION

CENTER HORIZONTALLY

Planning & Zoning
Orinda Township
Aug 1, 2020
Received

ASHLIE HOMESTORE

CUSTOMER:

ADDRESS: 9396 Baldwin Rd, Orinda Charter Township, MI 48359

DATE: 8/12/20

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INSTAL
INFORMATIONAL ONLY

TO: The Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: August 27, 2020

RE: Dates which cases can be postponed to

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

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

September 28, 2020
October 12, 2020
October 26, 2020
November 9, 2020