1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 08/22/2022, ZBA Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of
      576 Cushing St., 09-03-278-027 (postponed from 8/22/2022 meeting)
      The petitioner is seeking 8 variances from Zoning Ordinance #78
      Article VI, Section 6.04, Zoned R-3
      1. A 10.25-ft. front yard setback variance from the required 30-ft., to build a house with a deck
         19.75-ft. from the front property line (lakeside).
      2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear
         property line (Cushing St.).
      3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side
         property line (north).
      4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side
         property line (south).
      5. Revised - A 10.18-ft. 1.63-ft height variance from the rquird 30-ft. to build a house 40.18-
         ft 31.63-ft high.
      6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.
      Article XXVII, Section 27.02(A)(4)
      7. 8-ft. side yard setback variances for retaining walls to be 0-ft. from the property lines, north &
         south.
      Article XXVII, Section 27.17(B)
      8. A 5.25-ft. wetland setback variance, front the required 25-ft., to build a house with a deck 19.75-
         ft from a wetland (lake).
   B. AB-2022-37, Northern Sign Company for Allstate, 3048 W. Clarkston Rd., 09-08-376-017
      The petitioner is seeking 1 variance from sign ordinance #153 – Section 7 Non-Residential wall
      signs
      1. A variance for 1 wall sign over the allowed 1 wall sign for a total of 2 wall signs totaling 19.13-
         sq. ft.
   C. AB-2022-38, Kathleen Jacob & Richard Morrow, 454 Shorewood Ct., 09-03-405-007
      The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-3
      Article VI, Section 6.04
      1. An 8.42-ft. side yard setback variance from the required 10-ft. for a second story addition to be
         1.58-ft. from the property line (northeast).
      2. An 8.42-ft. side yard setback variance from the required 10-ft. for a deck addition to be 1.58-ft.
         from the property line (northeast).
      3. A 2.17-ft. side yard setback variance from the required 10-ft. for a porch to be 7.83-ft. from the
         property line (northeast).
      The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-1
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 10-ft. side yard setback variance from the required 10-ft., for a 6-ft. privacy fence to be 0-ft.
         from the property line to the west.
      2. A 10-ft. side yard setback variance from the required 10-ft., for a 6-ft. privacy fence to be 0-ft.
         from the property line to the east.
The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned R-2 Article XXVII, Section 27.01(C)(1)(b)
1. A 2.92-ft. side yard setback variance from the required 8-ft., for a house addition with an attached garage to be 5.08-ft. from the property line to the north.

6. PUBLIC COMMENTS
7. COMMUNICATIONS
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
10. ADJOURNMENT

In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to request accommodations.
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 22, 2022, at 7:07 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS ABSENT:
Tony Cook, Vice-Chairman

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Tom Williams  David Plunkett  Bruce Calhoun  Mike Riddle
Pete Smilanic  Nancy Smilanic  Mat Dunaskiss  John Trost
Robin Darnah  Marty Darnah  Alfred Vuktilaj  Monica Carter
Phyllis Sleight  Scott Gabnif  Georgette Dib

1. OPEN MEETING
Chairman Durham called the meeting to order at 7:07 pm.

2. ROLL CALL

3. MINUTES

A. 08-08-22, ZBA Regular Meeting Minutes

Trustee Flood moved, seconded by Board member Dunaskiss, to approve the 08-08-2022 minutes as presented.

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

4. AGENDA REVIEW AND APPROVAL

Trustee Flood moved, seconded by Chairman Durham, to approve the agenda as amended, moving Case AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027 to #A under 5. ZBA Business.

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

5. ZBA BUSINESS
A. **AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027**

Chairman Durham explained that Board member Dunaskiss recused herself from this case and Ms. Joann VanTassel will replace her on the Board during the hearing of this case.

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3
1. A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a deck 19.75-ft. from the front property line (lakeside).
2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.).
3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north)
4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south).
5. A 10.18-ft. height variance from the required 30-ft. to build a house 40.18-ft. high.
6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.

Article XXVII, Section 27.02(A)(4)
7. 8-ft. side yard setback variances for retaining walls to be 0-ft. from the property lines, north & south.

Article XXVII, Section 27.17(B)
8. A 5.25-ft. wetland setback variance, from the required 25-ft., to build a house with a deck 19.75-ft. from a wetland (lake).

Trustee Flood moved, supported by Chairman Durham, that in the matter of ZBA case AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027, to postpone until the September 26, 2022, ZBA meeting at the petitioner’s request.

Roll Call Vote was as follows: Kerby, yes; Flood, yes; Van Tassel, yes; Walker; yes; Durham; yes. Motion passes 5-0.

B. **AB-2022-23, Tracey Guaiana, 1150 Hemingway, 09-15-201-028**

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

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

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

Chairman Durham confirmed that the applicant requested to be postponed until October 24, 2022.

David Plunkett, Attorney, representing Tom Williams who owns property adjoining the petitioner. He expressed frustration about the extension of this case and the fact that the petitioner gets to keep the fence up which is in blatant violation of the zoning ordinance with a portion of the fence on his client’s property and needs to be removed. They have asked the petitioner to remove the violating portion of the fence. This is a costly and a frustrating situation.
Chairman Durham commented that the ability to extend a case is within the Board’s discretion according to the Board’s By-Laws. He stated that with the information submitted, he would have been uncomfortable hearing this case this evening.

Building Official Goodloe stated that if the fence is not approved by the Board, they will ask them to cut it down to 4 feet and not to remove it. The property line dispute is a civil matter between the two property owners.

Board member Dunaskiss moved, seconded by Board member Kerby, in the matter of ZBA case AB-2022-23, Tracey Guiana, 1150 Hemingway, 09-15-201-028 that the case be postponed to October 24, 2022, due to health issues.

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

C. AB-2022-25, Armando Vuoktilaj, 2005 Bald Mountain Rd., 09-24-100-007

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 5 variances from Zoning Ordinance #78 – Zoned R-1

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 40-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 0-ft. from the road right-of-way line along Bald Mountain Road (west).
2. A 37-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 3-ft. from the front property line along Starlight Trl (north).
3. A 37-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 3-ft. from the front property line along Starlight Trl (east).
4. A 7-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 3-ft. from the side property line (south).

Article XXVII, Section 27.03(G)(2)
5. Corner clearance requirement variances to erect a 6-ft. fence at the intersection of a driveway and a road right-of-way (north & south).

Mr. Vuoktilaj introduced himself and summarized the variance request. He provided pictures to the Board members.

Chairman Durham asked if any changes have been made to the request.

Mr. Vuoktilaj explained the location of easements on the property.

Chairman Durham commented on the corner clearance issue being at the corner of Starlight Trl and Bald Mountain Road.

Mr. Vuoktilaj stated that everything can be seen.

Chairman Durham asked about being able to see the cars. He visited the site, and he disagrees. He stated that it is hard to compare this case with neighbors since he does not know what the rules were when other fences were put up. He reiterated that he does not know the history of every neighbor’s fence.

Board member Dunaskiss stated that every case is unique, and this Board does not know the reasons behind every approval and the practical difficulty of each case. For this case, the Board is not seeing a practical difficulty, or a reason why it is necessary to have a 6-foot fence other than it is the petitioner’s desire to have a 6-foot fence. She does not see the practical difficulty in this case.
Mr. Vuktilaj stated that he doesn’t understand why, he can see 6-foot fences throughout his neighborhood, but he cannot have a 6-foot fence.

Board member Dunaskiss reiterated the fact that there isn’t a practical difficulty.

Chairman Durham asked for public comment.

Phyllis Slate stated that with the fence, when she pulls out to leave her property, she cannot see if there is traffic or not. It is a one vehicle street so there is a difficulty there and when she is coming home, she cannot see around the corner. There are young children in the neighborhood that are very difficult to see because of the fence and she drives at a slow speed. The man that is asking for the fence has a construction business, why he put up a fence without approval, she does not know. Even after someone came out and asked him to stop (putting up the fence), he continued. After the last meeting, the petitioner put up even more fencing. When the prior landowner asked for a variance, it was denied, and she doesn’t know why this would be different tonight.

Mr. Vuktilaj stated that he doesn’t know why she says she cannot see when she drives (down the street because of the fence) because there are trees also there. He stated that even with a 4-foot fence, you can see nothing because it is a one lane street. He commented on the bushes that are in front of the property and how the neighbor did not want him to cut them down. A 4-foot fence is ugly, and he does not like the appearance of that type of fence.

Chairman Durham stated that if it is a 4-foot fence, it is allowed, and the Board has no position on it. He does not see a practical difficulty in this case. The 6-foot fence makes it look like a compound and is everything that he does not like about 6-foot fences. He commented on his visit to the property.

Mr. Vuktilaj stated that he will put up a 4-foot fence then.

Chairman Durham stated that whatever the petitioner does, it should be within the boundaries of the ordinance.

Trustee Flood stated that the petitioner filed the petition on June 1st, and he has owned the property for two months, so he is new to the community?

Mr. Vuktilaj stated that he lived in Lake Orion since 2015 but this property is new for him.

Trustee Flood stated that he has to abide by the ordinance. The petitioner is allowed a 4-foot fence.

Mr. Vuktilaj stated that he has nothing to do with the previous neighbor.

Trustee Flood stated that he installed the fence illegally and the Board has to make a ruling. He is not in favor of a stockade fence on the lot line. He can put up the fence if he abides by setback requirements. He cannot put it on the lot line without a variance.

Mr. Vuktilaj stated that he based it on the neighborhood because he lives there.

Building Official Goodloe stated that the neighbor did receive a variance.

Board member Dunaskiss stated that it is a lovely piece of property, and she knows the petitioner has children that he is concerned about. The 4-foot fence is sufficient to keep the children safe.

Mr. Vuktilaj stated that the dogs in the neighborhood can jump a 4-foot fence.

Board member Dunaskiss stated that he would need to address that with the owner of the dog.

Mr. Vuktilaj stated that he is afraid for the safety of his children. There is nothing special about a 4-foot fence.
Board member Dunaskiss moved, seconded by Board member Kerby, that in the matter of ZBA case AB-2022-25, Armando Vuktilaj, 2005 Bald Mountain Rd., 09-24-100-007 that the petitioner’s request for five variances from Zoning Ordinance #78 – Zoned R-1, including Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) for 1. A 40-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 0-ft. from the road right-of-way line along Bald Mountain Road (west), 2. A 37-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 3-ft. from the front property line along Starlight Trl (north), 3. A 37-ft. front yard setback variance from the required 40-ft. to erect a 6-ft. privacy fence 3-ft. from the front property line along Starlight Trl (east), 4. A 7-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 3-ft. from the side property line south and a variance from Article XXVII, Section 27.03(G)(2) for corner clearance requirement variances to erect a 6-ft. fence at the intersection of a driveway and a road right-of-way (north & south) be denied because the petitioner did not, in this case, demonstrate that the following standards for variances have been met:

1. The petitioner did not demonstrate a practical difficulty that is relevant to the property itself.
2. The petitioner did not demonstrate any unique or exceptional 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 owners.
4. The granting of the variance or modification could be detrimental to the surrounding area by possibly limiting visibility to oncoming and going traffic.

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

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

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line south.

Ms. Dib introduced herself. She stated that she had a survey done and knows where the property line is. They learned that the fence located in the rear of the property is on her property. The property line is behind the neighbor’s fence. She explained the location of the stakes.

Chairman Durham stated that he would like Building Official Goodloe to review the survey results and if the rear variance request needs to be taken off, he should instruct the Board.

Building Official Goodloe stated that they would still need that variance for the 10 foot if they want to connect to the fence in the rear.

Chairman Durham asked Ms. Dibb to reiterate the reasons for the variance request on the east side.
Ms. Dibb reiterated her concerns about the dogs, neighbors, and the need for privacy. They were trying to get as close to the neighbor’s property line as possible so there wasn’t a gap. They cannot go on the property line because there are too many trees and a utility pole. She stated that they would like to put the fence where it was staked last time which is about 4-5 feet from the property line.

Mr. Dibb explained the reasons for the proposed location of the fence. It will be located exactly where it is staked. It is in front of the condenser that is existing. He confirmed the proposed location of the fence.

Chairman Durham asked for public comment.

Monica Carter asked about the proposed location of the fence.

Chairman Durham stated that the request is to come to the property line. The property line has been established by a survey.

Ms. Carter explained her property lines.

Building Official Goodloe stated that the survey shows the fence is right on Ms. Carter’s property line.

Chairman Durham stated that the Board is ruling on a 6-foot fence on a property line. If there is a property line dispute, it will be a civil matter.

Ms. Carter expressed her concerns about the request including who will be responsible for maintenance of the property between the fences.

Chairman Durham asked Mr. and Mrs. Dibb about the maintenance of the area between the fences.

Mr. and Mrs. Dibb stated that they would maintain the 4-foot gap between the fences; it is their property.

Board member Kerby asked about the exact setback request.

Ms. Dibb stated that when they came to the Board last time, they were not sure where the property line was and they have since paid for a survey and this changed their request.

Building Official Goodloe stated that the Board can consider a lesser variance at the petitioner’s request.

Mr. and Mrs. Dibb confirmed that they are asking for a 7-foot side yard variance.

Ms. Allison Carter stated that the neighbor has not had a yard for 7 years and they do not maintain the trees in their yard even though the petitioner says they are going to maintain the property between the fences. She commented on past history with the petitioner.

Building Official Goodloe stated that typically there is a 10-foot side gap between fences.

Mrs. Dibb asked if they are not granted a 7-foot variance, they can still put up the fence 10 foot from the property line.

Chairman Durham answered yes.

Board member Walker moved, seconded by Trustee Flood, that in the matter of ZBA Case #AB-2022-28, Georgette Dib, 563 Oakland St., 09-11-316-023 that the petitioner’s request for 2 variances from Zoning Ordinance #78 from Zoning Ordinance #78 – Zoned R-3, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) for 1. A 7-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 3-ft. from the side property line to the east and 2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear
property line south be denied because the petitioner did not demonstrate the follow standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did not demonstrate any practical difficulties that ran with the property itself.

2. The petitioner did not demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone.

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


Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78 – Zoned IP
Article XVIII, Section 18.03 (1)(1)(2)
1. A variance to allow a covered trash receptacle (dumpster) to be located in the side yard, north, rather than the required rear yard.
2. A variance to omit the required masonry brick type walls and the opaque lockable gate around the covered trash receptacle (dumpster).

Article XXVII, Section 27.19 (B)(2)(3)(4)
3. A variance to allow accessory/outdoor storage to be located in the side yard, east, rather than the required rear yard.
4. A variance to omit the required 8-ft. chain link fencing and screening around the accessory/outdoor storage.

Mr. Andrew Russo introduced himself and summarized the variance request. The building is off of Premier Drive. There is no usable rear yard there and he described the topography. They have recently taken over the entire building. They have outgrown the building now and he described the building’s location. He explained the development of their next location. He stated that they had a visit from the Fire Marshall because the FDC has to be visible from the street and they started following the process.

Chairman Durham asked if strict adherence to the ordinance would not allow them to do business in that building.

Mr. Russo concurred.

Board member Walker stated that this applicant was in front of the Planning Commission and were denied because of the variance issues. That is why they are in front of the Board now.

Mr. Russo concurred. They are not here to put up fences.

Trustee Flood stated that he is familiar with Premier Drive and he provided history about variances granted in this area. He stated that what makes it confusing is that there is a dumpster and an enclosure currently on the property. He asked if they are talking about the compactor, etc.

Mr. Russo confirmed that they cannot use a flip top dumpster because they cannot be picked up and they must use a roll off.
Trustee Flood commented that they are addressing the compactor, the roll off for the compactor and the flip top also, not the existing dumpster. He asked if when they move, if the compactor is going with them.

Mr. Russo replied he does not know; this has been in place since they occupied the building.

Trustee Flood stated that any variances granted stay with the building.

Mr. Russo stated that he has a letter to that effect from the owner of the property saying that he understands that. He stated that he is not aware of a variance that was granted for the compactor. They are also asking for a variance for the A-frames outside that house the stone slabs. They are asking to be able to store the stone slabs outside and not have an enclosure around them. He explained why it is not economically feasible to put up the enclosure.

Trustee Flood stated that money is not object on these variances. If they grant a variance, it will stay with the property.

Building Official Goodloe commented that the Board could put a time limit on the variances granted and he explained.

Chairman Durham commented that they could also put it to the end of occupancy.

Board member Kerby suggested that the variances with a time limit would not be permanent.

Building Official Goodloe concurred.

Trustee Flood stated that they do not want the compactor inside because they catch on fire.

Building Official Goodloe stated that they also do not want outdoor storage.

Trustee Flood suggested that they put a rolling gate across the whole front.

Mr. Russo stated that the Fire Marshall already denied any type of fencing covering the FDC.

Chairman Durham asked where the FDC is located.

Mr. Russo explained where the FDC is located. He explained why the fencing was not appropriate.

Chairman Durham commented on the expected visibility of a fire hydrant and why this is important.

Trustee Flood stated that they have storage in this area which is hindering them.

Chairman Durham asked if there was public comment.

Mr. Russo stated that the adjoining neighbor came to his property and asked about the variance request. The neighbor declined to come to this meeting because they did not want to waste time.

Trustee Flood asked what the intended time frame is.

Mr. Russo stated that they are actively working on the site plan and then they will be coming forward with plans for the new site. They are expecting a maximum of two years. It is difficult to come up with a time frame based on the unknown availability of materials, etc. He would accept a time frame of a one-year variance knowing that he would have to come back if needed.

Board member Walker reiterated that the new building is located in the Township too.
Chairman Durham commented on his site visit, and he stated that they are asking for minor variances to allow their business to continue. He doesn’t see any issue with the request.

Board member Kerby stated that his biggest concern was outdoor storage with no fencing. He would be okay with a limited time frame for the variance request.

Board member Walker moved, seconded by Board member Kerby, that in the matter of ZBA Case AB-2022-34, BACA Systems, 101 Premier Dr., Sidwell #09-35-451-001, that the petitioner’s request for 4 variances from Zoning Ordinance #78 – Zoned IP, Article XVIII, Section 18.03 (I)(1)(2) including:

1. A variance to allow a covered trash receptacle (dumpster) to be located in the side yard, north, rather than the required rear yard, 2. A variance to omit the required masonry brick type walls and the opaque lockable gate around the covered trash receptacle (dumpster) and from Article XXVII, Section 27.19 (B)(2)(3)(4) including: 3. A variance to allow accessory/outdoor storage to be located in the side yard, east, rather than the required rear yard and 4. A variance to omit the required 8-ft. chain link fencing and screening around the accessory/outdoor storage be granted because the petitioner did demonstrate that the following standards for variance have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: this practical difficulty is related to the property because of its unique characteristics, and it is not related to general conditions in the area.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone. The applicant indicated that because of the shape of the property and the FDC and various other requirements, these variances would be necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity.

3. The granting of the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located. In addition, one of the terms of the granting of the second two variances will be for a period of one year and if, at the end of that one year, the petitioner has not completed their business at this location and moved on to the next location, the petitioner must come back to the Zoning Board of Appeals to either renew, or get new variances in one year which would tie into the requirements that they were asked to do by the Planning Commission.

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

F. AB-2022-35, 3850 Joslyn Road, 3850 Joslyn Road, 09-28-376-031

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 15 variances from Zoning Ordinance #78 – Zoned GB Article XIV, Section 14.02(A)

1. A 66-ft. setback variance, from the required 100-ft. from residential property, to build a building with a drive-thru 34-ft. from the west property line.
2. A 32-ft. setback variance, from the required 50-ft. from residential property, for a drive-thru maneuvering lane to be 18-ft. from a residential property.

Article XIV, Section 14.03(C)(3)
3. A 22-ft. side yard setback variance, from the required 30-ft. along residential property, for parking spaces to be located 8-ft. from the north property line.
Article XIV, Section 14.03(I)(1)
4. A variance to allow a covered trash receptacle (dumpster) to be located in a side yard (north).

Article XIV, Section 14.03(J)(1)
5. A variance to allow a loading & unloading area to be in a side yard adjacent to residential property.
6. A variance to allow a loading & unloading area to be in a front yard (Hammerslea Road).

Article XIV, Section 14.04
7. A 2.42-ft. building height variance, from the maximum height limit of 25-ft., for the building to be 27.42-ft. high.
8. An 18-ft. side yard setback variance from the required 20-ft. for a structure (propane tank) to be 2-ft. from the side property line (north).

Article XXVII, Section 27.04
9. A 24-ft. landscape greenbelt width variance, from the required 30-ft., for the landscape greenbelt width to be 6-ft. along the north property line.
10. A 25-ft. landscape greenbelt width variance, from the required 30-ft., for the landscape greenbelt width to be 5-ft. along the west property line.

Article XXVII, Section 27.04(A)(4)
11. A 20-ft. greenbelt width variance, from the required 20-ft. greenbelt between road right-of-way and parking, for a 0-ft. greenbelt along the south & east sides.

Article XXVII, Section 27.05(A)(4)
12. A variance of 7 trees from Joslyn Road & 7 trees from Hammerslea Road to have 0 trees along the road right-of-ways of Joslyn Road and Hammerslea Road.

Article XXVII, Section 27.05(A)(6)
13. A variance to omit 2 required trees from the interior landscaping requirements of 1 tree per 200-sq. ft. of interior landscape space.
14. A 66-sq.ft. variance for interior landscape areas, from the required 400-sq. ft., to have 334-sq. ft. of interior landscape areas.
15. A 6-ft. variance from the required 10-ft. for interior landscape area to be 4-ft. wide.

Bruce Calhoun, Creekwood Architecture, introduced himself as representing the owner and he explained the variances requested for redevelopment of the facility. They would be improving the site not only with the looks of it but also added environmental protection. He explained the proposed building and planned leased space.

Chairman Durham asked about the location proximity to residential property.

Mr. Calhoun explained the location of a 6-foot masonry wall that is planned and the vegetation that is planned.

Chairman Durham asked if they planned to continue to fill propane at this location.

Mr. Calhoun answered yes. He continued with the explanation of the building’s location on the site. He explained the parking and dumpster variances requested. Mr. Calhoun continued his overview presentation with an explanation of the additional variances requested.

Trustee Flood asked how long Mr. Ford has owned the property.

Mr. Calhoun stated that he has been working on the site plan with him for over three years.

Trustee Flood stated that this date was omitted on the application.
Mr. Calhoun stated that this was probably his fault because he didn’t know.

Trustee Flood stated that when he sees 15 variances, it means they are trying to shove 10 pounds of potatoes into a 5-pound sack. He knows that they have to abide by today's ordinance. The areas surrounding this site are older residential areas. He does not have a problem with the green belt and things like that. However, he does have a problem when they stretch the setbacks from the residential properties. He does not like the propane tank next to the residential area.

Mr. Calhoun stated that there was neighbor concern about possible run off into the lake and they assured the neighbors that they would be protecting the area. The retention would be on the south side of the site, and he explained the existing slopes and planned system upgrades including underground storage.

Chairman Durham asked for public comment.

Scott Gabriel stated that his concern was having a propane tank that close to a residential area, and he also had concern with the drive thru because of the noise generated by a drive thru. Also, the noise and light will go over a 6-foot wall. He suggested that they eliminate the drive thru.

Rich Wong expressed his concerns with the variances requested including additional noise that would be generated by a drive thru.

Board member Kerby stated that he has a problem with the propane tank being so close to a residential zone. This is not in the best interest of public safety. The drive thru and the parking can be very noisy. They will see the lights and hear the noise over a 6-foot wall. He has an issue with the propane tank and the drive thru.

Board member Dunaskiss stated that if he is granted a drive thru, does the owner have an idea of hours of operation for the drive thru.

Mr. Calhoun stated that the hours of operation would depend on the business and would go back to the Planning Commission. At other locations, there is a Tropical Smoothie, and this seems likely. The owner has never gotten a coffee shop for his other locations.

Chairman Durham agreed with the concerns about the propane tank. There is a chance that it could impact the safety of the people in the area. He is also having a problem with the existence of a drive thru. He agreed with Trustee Flood as to proposed overcrowding of the site.

Mr. Calhoun stated that the car headlights going through the drive thru will be aimed at the wall and then turning. He had originally proposed trees to screen along the wall, but the Planning Commission felt that this would put an extra burden on adjoining property owners, so they switched to arborvitae. There are options on the menu boards to make them touch screen and there are decibel levels required as per ordinance.

Chairman Durham stated that this would help a lot because you cannot control the noise in the drive thru lane.

Mr. Calhoun stated that the Planning Commission will rule on eliminating the speaker.

Chairman Durham reiterated that the applicant needs to get through these variances to even get back to the Planning Commission.

Board members discussed putting conditions on the variance approvals and the Planning Commission response.

Board member Walker stated that he has never seen these many requests for one piece of property.
Mr. Calhoun commented that a lot of the requests are overlapping. He understands that the propane will not be approved. Also, he doesn’t think they need the parking that they are asking for, but the ordinance requires it. He commented on the landscaping variances requested.

Trustee Flood reviewed the checklist regarding approving a variance in reference to this site. They are trying to put too much into a small space.

Mr. Calhoun commented on the unique site and the practical difficulty. The owner is trying to stay there and improve and develop the site.

Trustee Flood moved, and Board member Kerby seconded, in the matter of case AB-2022-35, 3850 Joslyn Road, 3850 Joslyn Road, 09-28-376-031 that the petitioner’s request for 15 variances from Zoning Ordinance #78 – Zoned GB including the list below:

**Article XIV, Section 14.02(A)**
1. A 66-ft. setback variance, from the required 100-ft. from residential property, to build a building with a drive-thru 34-ft. from the west property line.
2. A 32-ft. setback variance, from the required 50-ft. from residential property, for a drive-thru maneuvering lane to be 18-ft. from a residential property.

**Article XIV, Section 14.03(C)(3)**
3. A 22-ft. side yard setback variance, from the required 30-ft. along residential property, for parking spaces to be located 8-ft. from the north property line.

**Article XIV, Section 14.03(l)(l)**
4. A variance to allow a covered trash receptacle (dumpster) to be located in a side yard (north).

**Article XIV, Section 14.03(J)(1)**
5. A variance to allow a loading & unloading area to be in a side yard adjacent to residential property.
6. A variance to allow a loading & unloading area to be in a front yard (Hammerslea Road).

**Article XIV, Section 14.04**
7. A 2.42-ft. building height variance, from the maximum height limit of 25-ft., for the building to be 27.42-ft. high.
8. An 18-ft. side yard setback variance from the required 20-ft. for a structure (propane tank) to be 2-ft. from the side property line (north).

**Article XXVII, Section 27.04**
9. A 24-ft. landscape greenbelt width variance, from the required 30-ft., for the landscape greenbelt width to be 6-ft. along the north property line.
10. A 25-ft. landscape greenbelt width variance, from the required 30-ft., for the landscape greenbelt width to be 5-ft. along the west property line.

**Article XXVII, Section 27.04(A)(4)**
11. A 20-ft. greenbelt width variance, from the required 20-ft. greenbelt between road right-of-way and parking, for a 0-ft. greenbelt along the south & east sides.

**Article XXVII, Section 27.05(A)(4)**
12. A variance of 7 trees from Joslyn Road & 7 trees from Hammerslea Road to have 0 trees along the road right-of-ways of Joslyn Road and Hammerslea Road.

**Article XXVII, Section 27.05(A)(6)**
13. A variance to omit 2 required trees from the interior landscaping requirements of 1 tree per 200-sq. ft. of interior landscape space.
14. A 66-sq.ft. variance for interior landscape areas, from the required 400-sq. ft., to have 334-sq. ft. of interior landscape areas.

15. A 6-ft. variance from the required 10-ft. for interior landscape area to be 4-ft. wide.

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

1. The petitioner does not show practical difficulty because the number of variances are self-created.

2. The petitioner did not establish unique or exceptional circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone because for today's standards, the applicant is trying to put in too much in a small area - mainly because of the drive thru.

3. The variances are not necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the fact that currently he is enjoying the property with a station, and he still can enjoy that property for the future.

4. The granting of the variances or modifications will be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based on the following findings of fact: all of the setbacks required for the drive thru, loading, and propane tank would be detrimental to the surrounding neighbors.

5. Granting these variances could impair an adequate supply of light or air to adjacent properties by not meeting setback requirements. It could increase the traffic on public streets due to the drive thru. It could increase the danger of fire or endanger public safety due to the propane tank being moved closer to a residential property. The granting of these variances could diminish or impair established property values within the surrounding area, or in other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

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

Mr. Calhoun expressed frustration that all of the variances were denied together and not taken individually. Mr. Calhoun stated that if he comes back, he would try with no drive thru and no propane. He asked, if he asked for the remainder, is there a reason to come back?

Chairman Durham suggested that the business and the neighbors be happy with the request.

Board member Kerby stated that the Board has to vote on all variances presented.

Mr. Calhoun and Board members discussed the application moving forward.

6. PUBLIC COMMENTS

Scott Gabriel thanked the Board for their professionalism.

Rich Wong thanked the Board for their involvement.

7. COMMUNICATIONS

8. COMMITTEE REPORTS

9. MEMBER COMMENTS
10. **ADJOURNMENT**

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 9:15pm.

Motion passes 5-0

Respectfully submitted,

Erin A. Mattice
Recording Secretary
Below are the locations of the ZBA cases for the September 26, 2022 meeting.
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: September 19, 2022

SUBJECT: Staff Report for AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027 for 9/26/2022 ZBA Meeting

This case was postponed from the August 22, 2022 ZBA meeting (minutes attached).

The applicants have reduced the height of the house by 1.5-ft. to 2-ft. per floor which reduced the total height of the house from 40.18-ft. to 31.63-ft. or a variance of 1.63-ft. Nothing else has changed.

We asked Mr. Smilanic to provide measurements from grade to the midpoint of the roof from 3 points along all four sides of the proposed house and to calculate that average which is how the 31.63-ft. height was arrived at. Attached is the email with those measurements and copies of the revised plans.

Please let me know if you have any questions.
Hi Lynn,

I have changed the 2 heights that you have asked for. If it's not too late to put the height variance back in, I would like to add it back in for 1'-7-1/2". To the mid-point of my house it is now 31'-7-1/2".

Starting front of the northeast corner of the house and working counter clockwise here are the measurements:
- Southside of house: 22'-0" 22'-0" 22'-0"
- East side of house: 22'-0" 28'-0" 42'-0"
- North side of house: 42'-0" 42'-0" 42'-0"
- Total: 379'-6"

Divide by 12 = 31'-7-1/2"

Pete
303-419-7815

On Sep 7, 2022, at 12:45 PM, Lynn Harrison <lharrison@oriontownship.org> wrote:

Thank you – we would still like to see the 12 measurements which can be prepared just like the one in email/memo form provided in “Dropbox” recently. Also, do you want us to add back in a variance for height or will you be modifying the plans to come in under the 30-ft.

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

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: September 19, 2022

RE: AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027 (Postponed from 8/22/2022 meeting)

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-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027 (Postponed from 8/22/2022 meeting), I would move that the petitioner’s request for:

8 variances from Zoning Ordinance #78Article VI, Section 6.04, Zoned R-3

1. A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a deck 19.75-ft. from the front property line (lakeside).
2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.).
3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north)
4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south).
5. Revised - A Revised 10.18-ft. 1.63-ft. height variance from the required 30-ft. to build a house 40.18-ft. 31.63-ft. high.
6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.
7. 8-ft. side yard setback variances for retaining walls to be 0-ft. from the property lines, north & south.
8. A 5.25-ft. wetland setback variance, from the required 25-ft., to build a house with a deck 19.75-ft. from a wetland (lake).

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:

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

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

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

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

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

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

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

4. Unreasonably diminish or impair established property values within the surrounding area due to:
5. Or, in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
SAMPLE MOTION FOR

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027 (Postponed from 8/22/2022 meeting), I
would move that the petitioner’s request for:

8 variances from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-3

1. A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a
deck 19.75-ft. from the front property line (lakeside).

2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from
the rear property line (Cushing St.).

3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the
side property line (north)

4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the
side property line (south).

5. Revised - A **40.18-ft.** 1.63-ft. height variance from the required 30-ft. to build a house
**40.18-ft.** 31.63-ft. high.

6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.

Article XXVII, Section 27.02(A)(4)

7. 8-ft. side yard setback variances for retaining walls to be 0-ft. from the property lines,
north & south.

Article XXVII, Section 27.17(B)

8. A 5.25-ft. wetland setback variance, from the required 25-ft., to build a house with a deck
19.75-ft. from a wetland (lake).

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:

_________________________________________________________________________

_________________________________________________________________________

_________________________________________________________________________
To: Zoning Board of Appeals  
From: Jeff Williams, Fire Marshal  
Re: AB-2022-36, Dunaksiss Case  
Date: 9/21/2022

The Orion Township Fire Department has completed its review of Application AB-2022-36 for the limited purpose of compliance with Charter Township of Orion Ordinance’s, Michigan Building Code, and all applicable Fire Codes.

Based upon the application and documentation provided, the Fire Department has the following recommendation:

Approved
X Approved with Comments (See below)
Not approved

Comments:

Granting of Height Variance: After consultation with the Township Attorney and review of the drafted attorney opinion letter received on 9/16/2022 the Fire Department has the following understanding at this time.

- Orion Township Ordinance #78 calculates the “General Height” of a structure by taking measurements from multiple areas around the building, dividing those measurements up which then gives an overall range of height. By following Ordinance #78 the applicant is seeking a 1ft 7 ½ inch height variance.
- Orion Township Ordinance #146 calculates height by the distance between the grade plan and the highest roof surface noted on a plan. By following Ordinance #146 / International Fire Code this gives the structure a measurement of 49 ½ ft in height. Per International Fire Code if this measurement exceeds 30ft in height the structure shall have an approved aerial access drive 26ft in width that is in the proximity of the structure. The intent of this drive is to allow for ladder truck access and operations in the event of an emergency. It shall be noted the applicant is seeking a height variance and proposing to build this structure on an access road has limited widths measuring 12’ wide.
- After consultation of the Township Attorney and review of the drafted opinion letter it is the fire departments understanding at this time that Ordinance #78 takes precedence over such height measurements making the structure 1ft 7 ½ inches out of compliance of Ordinance #78.
- With this information it shall be noted that the fire department still has areas of concern in regards life safety, property conservation and our departments inability to conduct aerial operations on an access drive that is non-compliant with International Fire Code.

If there are any questions, the Fire Department may be reached at 248-391-0304 ext. 2004.

Sincerely,

Jeffery Williams  
Jeff Williams, Fire Marshal  
Orion Township Fire Department
FINISH ELEVATION

FINISH ELEVATION (FROM GROUND) - ELEV 10' 6" = 3200 MM
MAIN FINISHED PLANK - ELEV 8'6" = 2590 MM
SECOND FINISHED PLANK - ELEV 6'10" = 2080 MM
ROOF - ELEV 12' 6" = 3805 MM
PREPARED WALL - ELEV 8'6" = 2590 MM

FINISH ELEVATION B TO TOP OF PREPARED WALL - ELEV 12' 6"
MAIN LEVEL FLOOR TO TOP OF PREPARED WALL - ELEV 5' 10"
Documents from August 22, 2022 ZBA Meeting
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: August 11, 2022
SUBJECT: Staff Report for AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, Vacant Parcel on Cushing St.

The parcel measures approximately 70-ft. at its widest point and is .140 acres or 6,098-sq. ft. The applicants are seeking variances to build a new home with an attached garage on the property.

The lake side of the property is being considered the front and the roadside the rear.

Because the property measures approximately 63-ft. at the front setback – there is a relaxed side yard setback from 10-ft. to 8-ft.

Per the applicants, the property slopes drastically towards the lake and will require the retaining walls shown on the plans. The retaining walls are proposed to be on or near the property lines on both the north and south sides.

Township Zoning Ordinance #78 measures the height of a house at its mid-point by measuring 3-points along each side of the house from ground level to the mid-point of the roof (see attached diagram) and using the average of those measurements to determine the mid-point height. The height measurements of the house, due to the placement of the house as it relates to the slope of the land, varies on each side for a total mid-point height of 40.18-ft. – the measurements used to come with this calculation was provided by the applicant (attached).

Please let me know if you have any questions.
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 2 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.
Height calculation provided by Mr. Smilanic

5. Regarding the height - I still need to know the actual height of the house to its mid-point (the number of stories is not an issue as originally discussed). We measure that by taking 3 measurements on all 4 sides of the house - 1 at each corner and 1 in the middle all measured from the grade at the point of measurement and then take the average of those 12 numbers to come up with the height. I attached an illustration that may help. The height of the home will be 40'-2" at its mid-point. This house will have a flat roof so the measurement comes from the top of the 3'-6" parapet wall on the top of the roof. Which is the highest part of the house. The actual height of the house would only be 29'-6" on a flat lot, but with the extreme drop on this property of 28' it makes it very hard to stay in the 30' requirement.

Front of house. 29'-6" on the right side. 29'-6" in the middle. 29'-6" on the left side.
Right side of house. 29'-6" on the front right side. 34'-6" middle of right side. 52'-6" back of house on the right side.
Back of house. 52'-6" on the left side. 52'-6" in the middle. 52'-6" on the right side.
Left side of house. 29'-6" on the front left side. 37'-9" middle of left side. 52'-6" back of house on the left side.

Pete
303-419-7815

From: Rison Construction <risonconstruction@hotmail.com>
Sent: Friday, July 22, 2022 7:01 PM
To: Pete Smilanic <pete@scdcorpfdn.com>; Nancy smilanic <nancysmilanic@me.com>
Subject: Fwd: Parcel 2 Cushing Street

Hi

This needs to be answered ASAP - Please see below.

They need all information by Tuesday to submit to the paper.

The earlier the better so if they need further clarification, we can get to them.

Thanks

Marcy

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

From: Lynn Harrison <lharrison@oriontownship.org>
Sent: Friday, July 22, 2022, 4:27 PM
To: Michael Riddle <risonconstruction@hotmail.com>
Subject: Parcel 2 Cushing Street

Hi Mike, I am reviewing the variances for the above parcel with Tammy and she pointed out a few things I need to clarify before I can come with the final language.

1. Although you are declaring the lake side as the front - the front setback is still measured from the roadside (as that will be the address) and when we measure 30-ft from that line, the property width is about 63-ft. so therefore the side yard setback is 8-ft. instead of 7-ft. I apologize for the misinformation.
Charter Township of Orion
Planning & Zoning Department
2323 Joslyn Rd., Lake Orion MI 48360
P: 248-391-0304 ext. 5001

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

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $250.00 for a residential application.

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

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

APPLICANT
Name: Mat Dunaskiss & Pete/Nancy Smilanic
Address: 535 Cushing Rd City/State/Zip: Lake Orion, MI 48362
Phone: (248) 790-1343 Cell: Fax: 
Email: mat@dunaskiss.big

PROPERTY OWNER(S)
Name(s): Mat & Diane Dunaskiss
Address: 535 Cushing Rd City/State/Zip: Lake Orion, MI 48362
Phone: (248) 790-1343 Cell: Fax: 
Email: mat@dunaskiss.big

CONTACT PERSON FOR THIS REQUEST
Name: Mike Riddle Phone: (248) 318-9584 Email: risconconstruction@hotmail.com

SUBJECT PROPERTY
Address: Lot 2 Cushing Street Sidewall Number: 09-03-278-027
Total Acreage: Length of Ownership by Current Property Owner: 8 Years, 0 Months

Does the owner have control over any properties adjoining this site? No
Zoning Ordinance
Allowance/Requirement Deviation requested
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.

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.

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:

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

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

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

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.
1. Asking for a variance because of the narrow width of the lot and steep grades. We are asking for the following:

**HOUSE/STRUCTURE:**
- A 10.25’ variance on the front side (lake side) (19.75’ from the house to the property line vs 30’ required)
- A 17’ variance on the rear side (road side) (18’ from the house to the property vs 35’ required)

2. The lot is approximately 57.20’ wide by 104.91’ feet deep. Because of this, we need adequate space for a driveway at the road side for safe parking.

3. If this appeal is granted, it will reduce parking in the street and conform to normal parking. It will also be a positive impact to the community and surrounding neighbors because of the proposed home we would like to construct on the lot.

4. It appears that this lot is in uniform with neighboring lots and how the homes were constructed on that street as well as other areas on the lake - This will conform with the rest of the lake and neighborhood.

5. A new lot was created and approved. Because of the grades, width and depth of the property, we are respectfully asking for a variance so that we may build a home on this lot. We intend to meet, exceed and conform to the other structures around the lake.

6. Because of the depth of the lot, the narrow width of the lot and the steep grades, the setbacks are impossible to meet.

7. Strict compliance with the ordinance unreasonably prevents the owner from using the property because due to the grades, width and depth of the property, we would have lack of space to build an adequate sized home and provide safe parking.
Case #: 

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

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

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

Signature of Applicant:  [Handwritten Signature]  Date:  7-06-XX
Print Name:  [Print Name]

Signature of Property Owner:  [Handwritten Signature]  Date:  7-06-XX
Print Name:  [Print Name]

If applicable: I the [Property Owner], hereby give permission to  [Handwritten Signature]  to represent me at the meeting.

OFFICE USE ONLY

Zoning Classification of property:  

Adjacent Zoning:  N.  S.  E.  W.  

Total Square Footage of Principal Structure:  

Total Square Footage of Accessory Structure(s):  

Description of variance(s):

Date Filed:  

Fee Paid:  

Receipt Number:  

Page 4 of 4
Section 6.04 – Area and Bulk Requirements *(amended 01.03.97, 02.17.04, 02.07.05, 07.16.18)*

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

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

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

Section 6.05 – Sign Regulation *(amended 10.08.98, 02.21.06)*

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

Section 6.06 – Tree Preservation Regulations *(amended 08.03.00)*

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

Section 6.07 – Wetland Setbacks *(added 09.17.07)*

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
construction on the rebuilding project is begun and diligently carried on within a reasonable time after the excavation, demolition, or removal of the theretofore existing building.

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 - Buildings, Structures, and Uses

A. Accessory Buildings, Structures and Uses. (amended 02.17.04)

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.

2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)

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)
Section 27.17 - Wetland Setbacks (added 09.17.07)

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

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

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

<table>
<thead>
<tr>
<th>Required Setback</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>All structures or buildings</td>
<td>25 ft.</td>
</tr>
<tr>
<td>All decks</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Parking lots</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Streets, roads, driveways</td>
<td>25 ft.</td>
</tr>
</tbody>
</table>

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

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

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

Section 27.18 - Wind Energy Conversion Systems (added 05.01.10)

A. Intent It is the intent of the Charter Township of Orion to promote the effective and efficient use of Wind Energy Conversion Systems (WECS) by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare. In no case shall this ordinance guarantee any wind rights or establish access to the wind.

B. Approval Required - Except where noted in this Section, it shall be unlawful to construct, erect, install, alter, or locate any WECS project within the Charter Township of Orion unless approval for a:

1. Private WECS: A permit has been obtained from the Building Department as an accessory use and subject to Section 27.02 and the height restrictions of Section 28.02. Only one (1) Private WECS shall be permitted per parcel, and the private WECS shall not be allowed within a front yard area.

2. Commercial WECS: A special land use has been obtained pursuant to Section 30.02 and this Section.
The Fire Department has reviewed the 3 proposed cases and has no concerns at this time regarding case numbers AB-2022-34 and 35.

Case number AB-2022-36 shows the construction of a residential structure measuring 41’6” in height. The location and height of this proposed residential building is an area of extreme concern regarding life safety, property conservation, and limits our ability to conduct firefighting tactics if this building were to catch on fire.

It is the fire department recommendation to the ZBA that height variance listed as #5 **NOT** be granted.

If you should need anything further, please let me know

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

Attached are three ZBA residential cases that needs to be reviewed by you for the August 22, 2022, ZBA meeting.

Thanks,
Lynn,

After receiving the public hearing notice listing the proposed variances and reviewing the plan drawings with the lot owners, including Mr. Pete Smilanic, on Saturday we believe that this project would:

1) fit in and conform with the home we’re planning to build starting later this year.

2) enhance the property values within our surrounding area.

Please provide this letter in support to the ZBA Board members for their consideration at the August 22, 2022 meeting.

Please also reply to confirm that you received this e-mail.

Thanks in advance and best regards,

Mark & Adele Muench
Lot 3-Cushing Street
Orion Township, MI 48362
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: September 13, 2022

SUBJECT: Staff Report for AB-2022-37, Northern Sign (for Allstate), 3048 W. Clarkston Rd., 09-08-376-017

The applicant is proposing to add a 16-sq. ft. wall sign to the front of the building and to remove and replace a 3.13-sq. ft. wall sign on the back of the building.

Per Sign Ordinance 153, only 1 wall sign is allowed therefore the variance request is to allow for 1 additional wall sign for a total of 2 wall signs. The total square feet of both wall signs will not exceed the maximum allowed.

Per the attached documents:

- The existing ground sign will remain and only the face of that sign is being switched out and is therefore considered a “Change of Copy” only.
- There are several vinyl window signs that are being switched out and their placement will not exceed the allotment for widow coverage.

Please let me know if you have any questions.
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-2022-37, Northern Sign Company for Allstate, 3048 W. Clarkston Rd., 09-08-376-017, I would move that the petitioner’s request for:

I variance from Sign Ordinance #153 – Section 7 Non-Residential Wall Signs

1. A variance for 1 wall sign over the allowed 1 wall sign for a total of 2 wall signs totaling 19.13-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:

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

   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________

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

   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________

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

   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________

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

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

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

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

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

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

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

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

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

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

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

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
SAMPLE MOTION FOR

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2022-37, Northern Sign Company for Allstate, 3048 W. Clarkston Rd., 09-08-376-017, I would move that the petitioner’s request for:

I variance from Sign Ordinance #153 – Section 7 Non-Residential Wall Signs

1. A variance for 1 wall sign over the allowed 1 wall sign for a total of 2 wall signs totaling 19.13-sq. ft.

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:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________
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, 2323 Joslyn Road, Lake Orion, Michigan 48360. A minimum of three cases are required in order to hold a meeting with a maximum of five. The applicant or a representative with written permission from the property owner must be present at the meeting.

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

APPLICANT:
Name: Northern Sign Co. – Richard Kielbasa
Address: 2181 E. Walton Blvd. Suite 100 City/State/Zip: Auburn Hills, MI 48326
Email: maryellen@northernsign.com

PROPERTY OWNER(S):
Name(s): Kevin Mylnarek
Address: 305 Lake St. City/State/Zip: Lake Orion, MI 48362
Phone: 248-379-3612 Cell: Fax: 
Email: kevin@idealtraits.com

CONTACT PERSON FOR THIS REQUEST:
Name: MaryEllen Phone: 248-333-7733 Email: maryellen@northern

SUBJECT PROPERTY:
Address: 3048 W. Clarkston Rd. Sidwell Number(s): 09-08-376-017
Total Acreage: 2.5 Length of Ownership by Current Property Owner: 7 Years, 2 Months

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

Ordinance Allowance/ Requirement

Deviation requested

List additional ordinance requirements and deviations on a separate page

Page 1 of 3
Case #: __________________________

COMMERCIAL VARIANCE

1. Describe the nature of the request. **Update signage for a new business owner.**

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 business is remaining an Allstate agency.**

3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township. **It is window stickers and a sign out front.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **It is a business in between two homes.**

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

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

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. ____________________________
Case #: __________________

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

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

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

Signature of Applicant: ___________________________ Date: ________

Print Name: Richard Kielbasa

Property Owner:

If applicable:

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

Signature of Property Owner: ___________________________ Date: ________

Print Name: ___________________________

OFFICE USE ONLY

Zoning Classification of property: ___________ Adjacent Zoning: ______ N. ______ S. ______ E. ______ W. _______

Total Square Footage of Principal Structure: _______________________ Total

Description of variance(s):

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

Date Filed: ______________________ Fee Paid: _____________ Receipt Number: ______________________
8. Have there been any previous appeals involving this property? If so, when? 
   
9. Is this request the result of a Notice of Ordinance Violation?  □ Yes  □ No
   
If/We, the undersigned, do hereby request action by the ZBA on the variance or specified matter above, in accordance with Sections 30.06, 30.07, 30.08, 30.10, and 30.11 of the Zoning Ordinance. In support of this request the above facts are provided. I hereby certify that the information provided is accurate and the application that has been provided is complete. As the property owner (or having been granted permission to represent the owner as to this application), I hereby grant the Zoning Board of Appeals members permission to visit the property, without prior notification, as is deemed necessary.

Signature of Applicant: 
(must be original ink signature) ___________________________ Date: ___________________________

Print Name: ___________________________

Property Owner: 
If applicable: 
I the property owner, hereby give permission to Matt Saint to represent me at the meeting.

Signature of Property Owner: ___________________________ Date: 8/26/2023
(must be original ink signature)

Print Name: Kern McWard

---

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-2022-37 Northern Sign
for Allstate, 3048 W. Clarkston Rd.

Request is to allow for 1 additional wall sign for a total of 2 wall signs (E02 & E06)

Note:
Sign E01 is a change of copy only

E03 Vinyl window sticker
E04 Vinyl window sticker no change
E05 Vinyl window sticker
E06 Vinyl window sticker no change
E08 Vinyl window sticker

E02 = 16" 
E06 = 3.13"

19.13"

Facade over 200"
Non-Residential Zoned Areas

Wall Signs

These requirements shall govern sign use, area, type, and numbers, in addition to requirements elsewhere in this Ordinance.
EMC signs are not permitted in wall signs.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>RB</th>
<th>GB</th>
<th>OP</th>
<th>LI</th>
<th>IP</th>
<th>IC</th>
<th>BIZ Use Groups A (Non-Residential), B, C, &amp; D</th>
<th>SP-1/SP-2</th>
<th>REC-1/REC-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of signs</td>
<td>1 wall sign per establishment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sign Area</td>
<td>10% of the façade area on which the sign is to be placed, or 200 sq. ft. per establishment whichever is less.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Footnotes</td>
<td>40 sq. ft.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Note Wall signs are not permitted in RFY

4 Wall Signs or Canopy Signs shall include all of the following and shall be further subject to the following regulations:
   a. The entire canopy shall be considered a wall sign when a translucent fabric canopy with signage is internally illuminated.
   b. A projecting sign shall be considered a wall sign. The measurement of such signs shall include both sides.
   c. Signage attached to a permanent architectural feature (as reflected on an approved site plan), including masonry or stone walls at the entrance of residential developments, commercial developments, or industrial parks, shall be measured as a wall sign and shall exclude the surface area of the background wall. See definition of “Sign Area” in Section 3.

8 Buildings and shopping centers shall be permitted a wall sign on the front and rear façade when the architecture is mirrored on both facades and parking is only available at the rear of the building. The wall sign on the rear façade shall be 10% smaller than that which is allowed on the front façade. When abutting a residential zoned or used parcel, rear façade signs shall be turned off at 11:00 pm or close of business whichever is earlier.
<table>
<thead>
<tr>
<th>SIGN#</th>
<th>SIGN TYPE</th>
<th>SIGN DESCRIPTION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>E02</td>
<td>ALST.WP1.AO_16</td>
<td>2'h x 8'w Non-Illuminated &quot;Allstate Only Copy&quot; Linear Aluminum Wall Pan Sign (16 SF)</td>
<td>Remove &amp; Replace Sign</td>
</tr>
<tr>
<td>E03</td>
<td>ALST.CUST.VIN</td>
<td>1st Surface Agent Name &amp; Number in White Vinyl</td>
<td>Remove &amp; Replace Sign</td>
</tr>
</tbody>
</table>

**PROPOSED SIGNAGE PHOTO**

![Image of proposed signage]

**EXISTING SIGNAGE PHOTO**

![Image of existing signage]

---

**NOTE:**

Your approval of the Brandbook indicates your acceptance that the signage, provided to you and owned by Allstate, will be manufactured and installed as shown, pending landlord and/or municipality approval. Once accepted, signage may not be declined at time of installation for any reason other than a manufacturing defect. Any Allstate-branded items that we install are the property of Allstate.
**NOTE:**
Your approval of the Brandbook indicates your acceptance that the signage, provided to you and owned by Allstate, will be manufactured and installed as shown, pending landlord and/or municipality approval. Once accepted, signage may not be declined at time of installation for any reason other than manufacturing defect. Any Allstate-branded items that we install are the property of Allstate.
<table>
<thead>
<tr>
<th>SIGN</th>
<th>PAGE#</th>
<th>SIGN TYPE</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>P01</td>
<td>ALST.CUST.RFC</td>
<td>Reface Sign</td>
</tr>
<tr>
<td>E02</td>
<td>P02</td>
<td>ALST.WP1.AO_16</td>
<td>Remove &amp; Replace Sign</td>
</tr>
<tr>
<td>E03</td>
<td>P02</td>
<td>ALST.CUST.VIN</td>
<td>Remove &amp; Replace Sign</td>
</tr>
<tr>
<td>E04</td>
<td>P03</td>
<td>No Action</td>
<td>No Action</td>
</tr>
<tr>
<td>E05</td>
<td>P04</td>
<td>ALST.DOOR.NS.VIN</td>
<td>Remove &amp; Replace Sign</td>
</tr>
<tr>
<td>E06</td>
<td>P05</td>
<td>ALST.PLAQ.NS_3</td>
<td>Remove &amp; Replace Sign</td>
</tr>
<tr>
<td>E07</td>
<td>P06</td>
<td>No Action</td>
<td>No Action</td>
</tr>
<tr>
<td>E08</td>
<td>P06</td>
<td>ALST.CUST.VIN</td>
<td>Remove &amp; Replace Sign</td>
</tr>
</tbody>
</table>
PROPOSED SIGNAGE PHOTO

EXISTING SIGNAGE PHOTO

Existing Sign Dimensions:
4' 0" h x 4' 0" w

Notes:

RECEIVED
AUG 2 3 2022

Orion Township
Planning & Zoning

*NOTE:
Your approval of the Brandbook indicates your acceptance that the signage provided to you and owned by Allstate will be manufactured and installed as shown, pending landlord and/or municipality approval. Once accepted, signage may not be declined at time of installation for any reason other than a manufacturing defect. Any Allstate-branded items that we install are the property of Allstate.

CLIENT: ALLSTATE - NC
LOCATION: MINCH
Saint Insurance Agency
3045 W Clarkston Rd
Lake Orion, MI
DATE: 4/26/2022
REVISION: 05.26.22. AC, Revised E07 & E08

PHILADELPHIA SIGN
BRINGING THE WORLD’S BRANDS TO LIFE
707 West Spring Garden Street
Plymouth, NJ 08075-1798

THE DRAWINGS CREATED BY PHILADELPHIA SIGN ARE TO BE SHOWN TO ANYONE OUTSIDE YOUR ORGANIZATION NOR IS IT TO BE MODIFIED, COPIED, REPRODUCED, OR EXHIBITED IN
<table>
<thead>
<tr>
<th>SIGN#</th>
<th>SIGN TYPE</th>
<th>SIGN DESCRIPTION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>E04</td>
<td>No Action</td>
<td>No Action - &quot;D&quot; Vinyl to Remain</td>
<td>No Action</td>
</tr>
</tbody>
</table>

**PROPOSED SIGNAGE PHOTO**

**EXISTING SIGNAGE PHOTO**

**REVISION:**
05.26.22, AC, Revised E07 & E08

**DATE:**
4/26/2022

**LOCATION:**
Saint Insurance Agency
3045 W Clarkston Rd
Lake Orion, MI

**CLIENT:**
ALLSTATE - NC

**DRAWING NUMBER:**
A37476

**NOTE:**
Your approval of the Brandbook indicates your acceptance that the signage, provided to you and owned by Allstate, will be manufactured and installed as shown, pending landlord and/or municipality approval. Once accepted, signage may not be declined at time of installation for any reason other than a manufacturing defect. Any Allstate-branded items that we install are the property of Allstate.
<table>
<thead>
<tr>
<th>SIGN #</th>
<th>SIGN TYPE</th>
<th>SIGN DESCRIPTION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>E06</td>
<td>ALST.DOOR.NS.VIN</td>
<td>1st Surface White Door Vinyl &quot;Logo Good Hands Allstate&quot; without Securities</td>
<td>Remove &amp; Replace Sign</td>
</tr>
</tbody>
</table>

**PROPOSED SIGNAGE PHOTO**

**EXISTING SIGNAGE PHOTO**

Matthew Saint  
248-393-1300  
Office Hours  
Monday – Friday 9am–5:30pm  
Saturday by Appointment  
allstate.com  
1-800-Allstate  
Auto, Home, Business, Life

*NOTE:*  
Your approval of the Brandbook indicates your acceptance that the signage, provided to you and owned by Allstate, will be manufactured and installed as shown, pending landlord and/or municipality approval. Once accepted, signage may not be declined at time of installation for any reason other than a manufacturing defect. Any Allstate-branded items that we install are the property of Allstate.
**NOTE:**
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MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: September 13, 2022
SUBJECT: Staff Report for AB-2022-38, Kathleen Jacob & Richard Morrow, 454 Shorewood Ct., 09-03-405-007

The applicants are proposing to add an addition to an existing house out towards the northwest side property line. They are also proposing to add an 8 x 8 porch with stairs possibly extending down to the front and rear of the property and to extend the existing deck to the northwest property line, to the rear and out to the northeast property line.

The proposed house and deck additions do not affect the setbacks from the front property line (the roadside), the rear property line, or the setbacks from the water’s edge.

The applicants’ will need a variance from the property line to the northeast for the proposed second story addition and the addition to the deck off the rear of the house.

The applicants’ will also need a variance for the proposed 8 x 8 porch on the northwest side of the house.

This property does not meet the standards for a relaxed side yard setback.

The proposed addition will eliminate the 21-sq. ft. porch and 317-sq. ft. of deck. The total square feet of the remaining deck and deck addition will be 336-sq. ft.

Total lot coverage will be just under the maximum of 1,600.38-sq. ft.

The applicants have indicated that the height of the house will not exceed 30-ft.

The only accessory structure on the property is a 102.1-sq. ft. shed which does not exceed the maximum allowed.

The proposed house addition is outlined in pink on the “Sketch of Survey” and the proposed new porch and deck are highlighted in yellow.

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

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: September 12, 2022
RE: AB-2022-38, Kathleen Jacob & Richard Morrow, 454 Shorewood Ct., 09-03-405-007

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-2022-38, Kathleen Jacob & Richard Morrow, 454 Shorewood Ct., 09-03-405-007, I would move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 – Zoned R-3

1. An 8.42-ft. side yard setback variance for a second story addition to be 1.58-ft. from the property line (northeast).
2. 2. An 8.42-ft. side yard setback variance for a deck addition to be 1.58-ft. from the property line (northeast).
3. 3. A 2.17-ft. side yard setback variance for a porch to be 7.83-ft. from the property line (northwest).

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:

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:

   1. 
   2. 
   3. 
   4. 

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

   1. 
   2. 
   3. 

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

   1. 
   2. 
   3. 

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

   1. 
   2. 
   3. 

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

   1. 
   2. 
   3. 

SAMPLE MOTION FOR

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2022-38, Kathleen Jacob & Richard Morrow, 454 Shorewood Ct., 09-03-405-007, I would move that the petitioner’s request for:

3 variances from Zoning Ordinance #78 – Zoned R-3

1. An 8.42-ft. side yard setback variance for a second story addition to be 1.58-ft. from the property line (northeast).
2. An 8.42-ft. side yard setback variance for a deck addition to be 1.58-ft. from the property line (northeast).
3. A 2.17-ft. side yard setback variance for a porch to be 7.83-ft. from the property line (northwest).

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:

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

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $250.00 for a residential application.

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

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

APPLICANT
Name: Kathleen Jacob & Richard Morrow
Address: 454 Shorewood Ct. City/State/Zip: Lake Orion, MI
Phone: 954-270-6782 Cell: 248-421-1227 Fax:
Email: Jacobd@Bellsouth.net & CBJSDADE.comcast.net

PROPERTY OWNER(S)
Name (s): Kathleen Jacob & Richard Morrow
Address: 454 Shorewood Ct. City/State/Zip: Lake Orion, MI
Phone: 954-270-6782 Cell: 248-421-1227 Fax:
Email: Jacobd@Bellsouth.net & CBJSDADE.comcast.net

CONTACT PERSON FOR THIS REQUEST
Name: Kathleen Jacob Phone: 954-270-6782 Email: Jacobd@Bellsouth.net

SUBJECT PROPERTY
Address: 454 Shorewood Court Sidewell Number: 09-03-405-007
Total Acreage: 0.16 Length of Ownership by Current Property Owner: 0 Years, 0 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. **We are requesting 3 Variances for a new addition**

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. **NE Side of the house is approx 1-7" from property line; NW variance would be approx. 8' from side lot line; Variance 3 is extending an existing deck 6' more feet on NE side of lot line**

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

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **As seen in Attached Property Gateway Pikes, Almost every house on Shorewood Court is violating a township setback requirement.**

5. Describe how the alleged practical difficulty has not been self-created. **We are justly married and need to expand the 900 sq. Cottage for living.**

6. The topography of said land makes the setbacks impossible to meet because: **We need the space for the proposed addition**

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 additional 2nd Story gives us the room needed to live. Currently it is a one bedroom house yet very small even for one person.**
Case #: 

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

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

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

Signature of Applicant:  
Richard A. Morrow  
Date: 8/24/2022

Print Name: Richard A. Morrow

Signature of Property Owner:  
Kathleen Jacob  
Date: 8/24/2022

Print Name: Kathleen Jacob

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 VI  Single Family Residential: R-1, R-2 & R-3

Section 6.04 – Area and Bulk Requirements (amended 01.03.87, 02.17.04, 02.07.05, 07.16.18)

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

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

*In those instances where public sewers are not provided, a minimum lot area of 12,500 sq. ft. shall be provided.

** Where the front setbacks of two (2) or more principal structures in any block (in the case of platted properties) or within three hundred (300) feet (in the case of unplatted properties) in existence at the time of passage of this Ordinance, within the district zone and on the same side of the street, are less than the minimum front setbacks required herein, then any building subsequently erected within said block (or three hundred (300) feet) shall not be less and not be greater than the average depth of the front setbacks of the existing structures.

*** Where a garage door or opening faces a side lot line, said side lot setback shall be thirty (30) feet.

Section 6.05 – Sign Regulation (amended 10.08.98, 02.21.06)

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

Section 6.06 – Tree Preservation Regulations (amended 08.03.09)

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

Section 6.07 – Wetland Setbacks (added 09.17.07)

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
AB-2022-38, Kathleen Jacob & Richard Morrow, 454 Shorewood Ct., 09-03-405-007 R-3
.47 acres 6,403.32 sq 25% = 1,600.83 sq

(Front) Needs to be 30-
Setback from Road 31'-6" (31.5") OK
Setback from NE Prop. Line 1'-7" (1.58') 8.12' for Addition OK

(Second story)
Setback from NE Prop. Line 35' OK House 25' will be more than 63' OK
Setback from Water Deck 20' will be more than 63' OK 3.17

Kear Setback from prop line 35' OK House 25' will be more than 63' OK 3.17
Setback from NW Prop Line 7'-10" (7.83') House addition OK
3.17 variance New deck off Lakeside OK

Height OK less than 30'

Lot Coverage
House 653
New Addition 320
New Covered Porch 64 (8x8)
New Stairs 16.25' each = 32.5' (3.25' x 5' = 16.25)
New Deck on Lake side 308' 336

Porch 24 goes away with addition
Deck 317 goes away with addition
Shed 102.1

1,507.6 OK * Deck calculation!
17.5 x 8 = 140
8 x 8 = 64
8 x 22 = 132
336

95
SKETCH OF SURVEY
PART OF THE SOUTHEAST 1/4 SECTION 3, T. 4N., R. 10E.,
ORION TOWNSHIP, OAKLAND COUNTY, MICHIGAN.

LEGEND
(a) Measured
(b) Recorded
(c) Calculated
O Found Iron
SET IRON
EXISTING FENCE

EX. ELECTRIC METER
EX. GAS METER
EX. UTILITY POLE
EX. TEST HOLE

BENCHMARK
MAG NAIL ON TOP
OF SEAWALL.
ELEVATION: 984.62

LOT 154

LOT 155

LOT 156

LAKE ORION

LAKE ELEVATION
984.19 (N.A.V.D.88)
3/2/2022

PROPERTY DESCRIPTION:
(PER INDEPENDENCE TOWNSHIP ASSESSING)
PARCEL NO. 09-03-405-007
#454 SHOREWOOD COURT
LOT 155, ALSO A PARCEL OF SUBMERGED LAND LYING ADJACENT TO
SAID LOT & BETWEEN THE LINES OF SAID LOT, EXTENDED 60 FEET
INTO LAKE ORION, OF "LAKE ORION GROVES SUBDIVISION", AS
RECORDED IN LIBER 16 OF PLATS, PAGE 24, OAKLAND COUNTY
RECORDS, PART OF THE SOUTHEAST 1/4 OF SECTION 3, TOWN 4
NORTH, RANGE 10 EAST, ORION TOWNSHIP, OAKLAND COUNTY,
MICHIGAN.

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED
THE LAND ABOVE PLANTED AND/OR DESCRIBED ON
3/2/2022 AND THAT THE ERROR OF CLOSURE ON THE
UNBROKENFIELD COORDINATES OF THIS SURVEY

STATE OF MICHIGAN
PAUL W. KINNUNEN
PROFESSIONAL SURVEYOR
No. 48781

LINE & DISTANCE, LLC.
P.O. BOX 51525 WYANDA, MI 48186 PHONE: 313.314.4012
Email: pwlk2190@yahoo.com

97

NOTES:
1. IRRIGATION ARE BASED ON THE MICHIGAN STATE PLAN
COORDINATE SYSTEM (NAD83), MS SOUTH ZONE.
2. TITLE WORK NOT PROVIDED. EASEMENTS MAY EXIST
AND ARE NOT SHOWN.
The Orion Township Fire Department has reviewed the proposed documentation and has no concerns at this time.

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

From: Debra Walton <dwalton@oriontownship.org>
Sent: Wednesday, August 31, 2022 10:10 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Documents for the September 26, 2022, ZBA Meeting

Attached are three ZBA residential cases that needs to be reviewed by you for the September 26, 2022, ZBA meeting.

Thanks,
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: September 14, 2022


The applicant is asking to allow a 6-ft. fence to remain on the property line to the east and west. The fence does not extend all the way to the front property line nor does it extend as far back as the rear property line. There is an existing pond about ¾ of the way back on the property where the fence along the east property will not impede.

The applicant has indicted that he believes the neighbor’s driveway to the east encroaches on his property and there is no fence in that location.

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

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: September 12, 2022


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-2022-39, Michael Adams, 2901 Judah Rd., 09-32-400-007, I would move that the petitioner’s request for:

2 variances from Zoning Ordinance #78 – Zoned R-1

1. A 10-ft. side yard setback variance for a 6-ft. privacy fence to be 0-ft. from the property line to the west.
2. 2. A 10-ft. side yard setback variance for a 6-ft. privacy fence to be 0-ft. from the property line to the east.

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

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:

   
   
   

   

107
SAMPLE MOTION FOR

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2022-39, Michael Adams, 2901 Judah Rd., 09-32-400-007, I would move that the petitioner’s request for:

2 variances from Zoning Ordinance #78 – Zoned R-1

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

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:

   [Blank space for additional details]

   [Blank space for additional details]

   [Blank space for additional details]

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

   [Blank space for additional details]

   [Blank space for additional details]

   [Blank space for additional details]

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

   [Blank space for additional details]

   [Blank space for additional details]

   [Blank space for additional details]

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

   [Blank space for additional details]

   [Blank space for additional details]

   [Blank space for additional details]

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

   [Blank space for additional details]

   [Blank space for additional details]

   [Blank space for additional details]
Notice to Applicant:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $250.00 for a residential application.

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

Proof of Ownership Must Be Included With This Application. Acceptable forms of documentation include: Warranty Deed, Quit Claim Deed, Land Contract, or Option to Purchase with a Copy of the Warranty Deed.

Applicant

Name: MICHAEL ADAMS

Address: 19390 Clement Rd City/State/Zip: NORTHVILLE MI

Phone: Cell: 248 933-0630 Fax:

Email: ADAMS.MJ23@GMAIL.COM

Property Owner(s)

Name(s): MICHAEL ADAMS

Address: 19390 Clement Rd City/State/Zip: NORTHVILLE MI 48167

Phone: Cell: 248 933 0630 Fax:

Email: ADAMS.MJ23@GMAIL.COM

Contact Person for This Request

Name: MICHAEL BOAN Phone: 248 933-0630 Email: ADAMS.MJ23@GMAIL.COM

Subject Property

Address: 2901 JUDD RD Sidwell Number: 09-32-400-007

Total Acreage: 5.5 Length of Ownership by Current Property Owner: 2 Years, 0 Months

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

Zoning Ordinance Allowance/Requirement Deviation requested 6' FRONT ON PROPERTY LINE
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **ALLOW A SIX FOOT FENCE ON PROPERTY LINE BOTH SIDES OF PROPERTY.**

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 PROPERTY HAS TWO ISSUES WHERE A 10' SETBACK IS NOT POSSIBLE. THE NEXT DOOR NEIGHBOR HAS ENCROACHED WITH DRIVEWAY ON OUR PROPERTY. THE OTHER SIDE IS OBSTRUCTED BY POND.**

3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: **WE ARE ON A DIRT ROAD WITH A LONG NARROW LOT WHERE NOTHING IS VISIBLE FROM ROAD AT TAU LINE.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **NEXT DOOR HAS A VACANT LOT WITH BASEMENT. THEY STORE GARbage & CONSTRUCTION TOOLS BACK ON IT.**

5. Describe how the alleged practical difficulty has not been self-created. **THE ENCROACUMENT ON ONE SIDE WAS NOT US.**

6. The topography of said land makes the setbacks impossible to meet because: **A RETENTION POND BLOCKS PASSAGE OF FENCE ON ONE SIDE.**

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. **WITHOUT THE FENCE ON ONE SIDE, NEIGHBOR WILL CONTINUE TO USE AS PASSAGE/DRIVEWAY. THE OTHER SIDE IS BLOCKED BY RETENTION POND.**
Case #: ____________________

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

   N  

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: AUG 25 2022

Print Name: MILLION DOANS

Signature of Property Owner: ____________________  Date: AUG 25 2022

Print Name: MILLION DOAM

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: ____________________
To Whom it may concern:

When we initially installed the fence we believed we were in compliance based on the property size. However, we have now come to understand that a few other parameters existed to allow a property line fence.

We have a couple of unique challenges with our property that make the set back unfeasible:

1. The lot line adjacent to Lot 9 has the edge of a retention pond that runs right through the area of the fence. On the other side of that fence exists an easement for the neighbors that the back lot uses. That back lot is frequently littered with construction debris, scaffolding and etc. In order to provide a safe barricade from the contractor traffic using that back lot, and to avoid putting footings in an area that at times is under water, we need to keep the fence on the property line.

2. The lot line adjacent to Lot 7 has an encroachment issue from the neighbor. The previous homeowner from lot 7 had slowly encroached onto our property over the years prior to us owning it. This wasn't completely apparent until after we owned the property and paid to have it surveyed. That homeowner sold the property and we were presented with a small window of opportunity to regain some of our property. We had the lot line staked and installed the fence right on the property line to provide a safe barrier from the driveway issue. If you currently inspect the fence location, you will see the new homeowner has to drive right alongside it to access the driveway the previous homeowner had created.

Our property is one of the lowest sitting property, a 6' fence would provide more privacy than a 4 and create a safe barrier where traffic would not be visible on both sides of the property. If a variance cant be made for a 6' foot fence, we would like to have the issues of the property encroachment addressed. The new homeowner at lot 7 must relocate the approach at the road and create appropriate setbacks as well. The lot on the other side of the property needs to no longer be for construction use.

Thank You,

Mike Adams
AB-2022-39  Michael Adams, 2901 Judah Rd
09-32-400-007  5.126 acres  Zoned R-1

6' fence along the east and west property lines

10 ft

Needed variances to be on the property line on both the east and west property lines

Section 27.05 (11)(4) does not apply as the lot has less than 200' frontage

Fence along the west property line adjacent to the retention pond is 25' away - meets the setback requirement from a wetland
FENCE TOPOGRAPHIC ISSUE
WITH RETENTION POND
Article XXVII  General Provisions

27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses

A. Accessory Buildings, Structures and Uses. (amended 02.17.04)

1. An accessory building, structure or use shall not be located on a parcel unless there is a principal building, structure, or use already located on the same parcel of land.

2. An accessory building or structure shall not be constructed prior to the commencement of construction of the principal building or structure or the establishment of the principal use.

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements. (amended 07.16.18)

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)
Article XXVII  General Provisions

27.05 Landscaping, Fences and Walls

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

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

2. Construction and Design. Any entranceway structure shall be constructed of permanent, durable materials and shall be designed so as to be compatible with the architecture of surrounding development.

3. Site Plan. Prior to issuance of a building permit for any entranceway structure, a site plan shall be submitted to the Planning Commission for review and approval. The site plan shall include an elevation drawing and a cross-section of the proposed structure. The site plan shall show the relationship of the entranceway to the right-of-way of the intersecting roads and/or driveways.

H. Residential Fence and Wall Regulations.

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

1. Lot Enclosures. Fences and walls used to enclose a lot shall be no higher than four (4) feet in height and shall be located on the lot line.

2. Privacy or Decorative Fences and Walls. Fences and walls erected primarily for privacy or decoration shall not be located within any required yard setback area and shall not exceed six (6) feet in height.

3. Corner Clearance. No fences or walls shall be erected, established or maintained on any corner lot so as to obscure the view of drivers in vehicles approaching the intersection. All specifications concerning corner clearance as set forth in Section 27.03 shall be complied with.

4. Large Lots Excluded. Fences and walls shall be excluded from the provisions of this section if such lots have an area of more than two (2) acres, have frontage of at least two hundred (200) feet, and are not part of a recorded plat.

5. Fences Enclosing Public Areas. Fences, walls or other protective barriers that enclose parks, playgrounds, or other public landscaped areas shall not exceed ten (10) feet in height. The Planning Commission may authorize a fence, wall, or protective barrier of additional height, with or without barbed wire, where necessary, to protect public utility or municipal installations in a residential district.

6. Wall Specifications. Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below grade. The foundation shall be at least four (4) inches wider than the wall to be erected.

7. Fence Specifications. Fences constructed of chain link, wood, vinyl or other similar materials are permitted. Posts shall be sunk into the ground at least three (3) feet.

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.
Debra Walton

From: Jeff Williams
Sent: Tuesday, September 6, 2022 8:49 AM
To: Debra Walton
Subject: RE: Residential ZBA Documents for the September 26, 2022, ZBA Meeting

The Orion Township Fire Department has reviewed the proposed documentation and has no concerns at this time.

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

From: Debra Walton <dwalton@oriontownship.org>
Sent: Wednesday, August 31, 2022 10:10 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Documents for the September 26, 2022, ZBA Meeting

Attached are three ZBA residential cases that needs to be reviewed by you for the September 26, 2022, ZBA meeting.

Thanks,

Debra Walton
Clerk
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5002
W: www.oriontownship.org
2901 Judah

Gene McNabb <tazzie58@comcast.net>
Thu 9/8/2022 9:30 AM
To: Lynn Harrison <lharrison@oriontownship.org>
Good morning can you forward these pictures to the zba members. Thanks gene McNabb
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: September 13, 2022


The subject property is 60-ft. wide and therefore has a relaxed side yard setback of 8-ft. instead of the required 10-ft.

The applicant is proposing to add a second story addition and an attached garage to an existing house. Both the second story addition and the attached garage will be 5.08-ft. from the property line to the north, or a variance of 2.92-ft.

The property is a little over a ½ an acre so is allowed a total maximum floor area of 1,300-sq. ft. of all accessory structures – the proposed attached garage, and the two detached sheds will not exceed that maximum.

Also, the 25% lot coverage maximum of 5,924.16-sq. ft. will not be exceeded.

The applicant has indicated that the height of the house will not exceed 30-ft.

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

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: September 12, 2022
RE: AB-2022-40, Courtney Markoff, 805 Merritt Ave., 09-11-351-004

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

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

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-2022-40, Courtney Markoff, 805 Merritt Ave., 09-11-351-004, I would move that the petitioner’s request for:

1 variance from Zoning Ordinance #78 – Zoned R-2

1. A 2.92-ft. side yard setback variance for a house addition with an attached garage to be 5.08-ft. from the property line to the north.

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

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

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

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

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

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

   __________________________________________________________

   __________________________________________________________

   __________________________________________________________

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

   __________________________________________________________

   __________________________________________________________

   __________________________________________________________

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

   __________________________________________________________

   __________________________________________________________

   __________________________________________________________

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

   __________________________________________________________

   __________________________________________________________

   __________________________________________________________

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

   __________________________________________________________

   __________________________________________________________

   __________________________________________________________
SAMPLE MOTION FOR

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case **#AB-2022-40, Courtney Markoff, 805 Merritt Ave., 09-11-351-004**, I would move that the petitioner’s request for:

1 variance from Zoning Ordinance #78 – Zoned R-2

1. A 2.92-ft. side yard setback variance for a house addition with an attached garage to be 5.08-ft. from the property line to the north.

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

NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $250.00 for a residential application.

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

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

APPLICANT
Name: Courtney Markoff
Address: 805 Merritt Ave
City/State/Zip: Lake Orion MI 48362
Phone: 248-561-3774
Email: courtney.cloverdesigns@gmail.com

PROPERTY OWNER(S)
Name(s): Courtney Markoff
Address: 805 Merritt Ave
City/State/Zip: Lake Orion MI 48362
Phone: 248-561-3774
Email: courtney.cloverdesigns@gmail.com

CONTACT PERSON FOR THIS REQUEST
Name: Edward Gervosian
Phone: 248-914-4747
Email: ed.cloverdesigns@gmail.com

SUBJECT PROPERTY
Address: 805 Merritt Ave
City/State/Zip: Lake Orion MI 48362
Sidwell Number: 09-11-251-004
Total Acreage: 0.55
Length of Ownership by Current Property Owner: 1 Years, 10 Months

Does the owner have control over any properties adjoining this site? NO
Zoning Ordinance Allowance/Requirement 27-01(c)(1)(a) Deviation requested from 8' to 5'1"
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **A substantial addition and renovation of an existing single family residence. The additional project component to be added are typical of similar properties and bring this property into conformance with similar standards.**

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 location and orientation of the existing structure dictate the incorporation of new design elements that bring the property into compliance with modern residential design standards. To do so without a variance would (see attached) 12/2/14.**

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

   Overhead height is less than 30'.

4. Explain how the request is not consistent with other properties in the immediate area, please cite examples if possible: **See attachment C at 4**

5. Describe how the alleged practical difficulty has not been self-created. **The existing structure and utilities were in place when the property was purchased.**

6. The topography of said land makes the setbacks impossible to meet because: **Topography is not an issue**

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. **Strict compliance does not allow this property to be brought up to modern design standards as seen in adjacent properties.**
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: 8/26/22
Print Name: COURTNEY MARKOFF

Signature of Property Owner:
(must be original ink signature) __________________________ Date: 8/26/22
Print Name: COURTNEY MARKOFF

If applicable: I the property owner, hereby give permission to EDWARD GERAOSIAN 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: __________________________
Residential variance

1. **Nature of the project**
   A substantial addition and renovation of and existing single-family residence. The additional project components to be added are typical of similar properties and bring this property into conformance with similar standards.

2. **Special and unique circumstances.**
   The location and orientation of the existing structure disallow the incorporation of new design elements that bring the property into compliance with modern residential design standards. To do so without a variance would entail complete redevelopment of the site including demolition of the existing structure and services infrastructure.

3. **Public Welfare**
   The new construction will not adversely affect other adjacent properties or properties in the area. The location of the addition is not adjacent to any other existing properties. In fact, the new addition is adjacent to a dedicated easement that allows residents for the neighboring development access to their property. The proposed improvements will also increase the property value.

4. **Consistent**
   A majority of the existing properties exhibit similar features to those that will be added to this project. Attached garage, additional bedrooms, enhanced living spaces.

5. **Practical difficulty**
   The existing structure and utilities were in place when the property was purchased.

6. **Topography**
   Topography is not an issue on this site.

7. **Strict Compliance**
   Strict compliance does not allow this property to be brought up to modern design standards as seen in adjacent properties.
OAKLAND COUNTY TREASURER’S CERTIFICATE
I HEREBY CERTIFY that there are no TAX LIENS or TITLES
held by the state or any individual against the within description
and all TAXES on same are paid for five years previous to the
date of this instrument as appears by the records in the office
except as stated.
Reviewed by: SR

Oct 29, 2020
5.00 E-FILE
Sec. 185, Act 206, 1891 as amended
----- Not Examined
ANDREW E. MEISNER, County Treasurer

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That Scott P. Rundell, a married man
whose address is 805 Merritt, Lake Orion, MI 48362
convey(s) and warrant(s) to Courtney Markoff, a single woman
whose address is 817 Fairview Street, Lake Orion, MI 48362

Land situated in the Township of Orion, County of Oakland, State of Michigan

SEE ATTACHED EXHIBIT A FOR COMPLETE LEGAL DESCRIPTION

Commonly known as 805 Merritt, Lake Orion, MI 48362
Tax ID No. 09-11-351-004

For the sum of Two Hundred Five Thousand and 00/100 Dollars ($205,000.00)
Subject to easements and building and use restrictions of record.

Dated this 15th day of October, 2020.

[Signature]
Scott P. Rundell

State of Michigan
County of Macomb

The foregoing instrument was acknowledged before me this 15th day of October, 2020, by Scott P. Rundell, a married man.

[Signature]
Notary Public,

My commission expires

Acting in the County of

[Signature]
Notary Public,

My commission expires

Acting in the County of

[Signature]
Notary Public,

My commission expires

Acting in the County of

Drafted by:
Devon Title Agency
Under the direction of Scott P. Rundell
805 Merritt
Lake Orion, MI 48362

When recorded return to:
Courtney Markoff
805 Merritt
Lake Orion, MI 48362
AB - 2022-40, 805 Merritt, 09-11-351-004

.544 acres 23,696.64 25% = 5,924.16

Front setback needs to be 35' Complies OK
Arear setback needs to be 35' Complies OK
Side yard setback (South) 15.67' OK
Side yard setback (North) 5.08' Variance of 2.92'

Property width 60' therefore side yard setbacks are 8'

Lot Coverage:

House 1,158
Deck 64
Deck 716
Shed 208
Shed 120
Addition 2,404
Attached Garage 463 OK

5,133 OK

Accessory Structures Size OK

Shed 208
Shed 120
Attached Garage 463

$91

Max 1300
Article XXVII

27.01 Nonconformities

i. Noneconforming structures, other than buildings, such as signs, billboards, fences and other structures;

ii. Buildings not in conformance with dimensional requirements such as lot area, yards, lot coverage, and height;

iii. Buildings not in conformance with parking, loading, and/or landscaping requirements;

iv. All other nonconformities arising from failure to meet any of the requirements imposed by this Ordinance.

3. Nonconforming Site or Lot. A nonconforming site or lot is a site or lot or portion thereof existing on the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.

4. Administrative Nonconformity. An administrative nonconformity is any building, structure or use which was in existence at the time of adoption of this Ordinance and which is required by this Ordinance to have special administrative approval such as special land use approval, cluster housing development approval, or Zoning Board of Appeals approval.

C. Nonconforming Lots.

The following regulations shall apply to any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this Ordinance or an amendment thereto:

1. Use of Nonconforming Lots. Any nonconforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that:

   a. The lot is at least fifty (50) feet in width.

   b. Side yard setbacks as set forth in the following chart are complied with:

<table>
<thead>
<tr>
<th>Lot Width</th>
<th>Each Side Yard Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 to 54    feet</td>
<td>6 feet</td>
</tr>
<tr>
<td>55 to 59    feet</td>
<td>7 feet</td>
</tr>
<tr>
<td>60 to 65    feet</td>
<td>8 feet</td>
</tr>
<tr>
<td>66 to 69    feet</td>
<td>9 feet</td>
</tr>
<tr>
<td>70 feet</td>
<td>10 feet</td>
</tr>
</tbody>
</table>

   c. The lot is in conformance with all other applicable yard and lot requirements.

2. Variance to Yard Requirements. If the use of a nonconforming lot requires a variation of the front or rear setback or front or rear yard requirements, then such use shall be permitted only if a variance is granted by the Zoning Board of Appeals under the terms of this Ordinance.

3. Nonconforming Contiguous Lots Under Same Ownership. If two (2) or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of the Ordinance,
Debra Walton

From: Jeff Williams  
Sent: Tuesday, September 6, 2022 8:49 AM  
To: Debra Walton  
Subject: RE: Residential ZBA Documents for the September 26, 2022, ZBA Meeting

The Orion Township Fire Department has reviewed the proposed documentation and has no concerns at this time.

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

From: Debra Walton <dwalton@oriontownship.org>  
Sent: Wednesday, August 31, 2022 10:10 AM  
To: Jeff Williams <jwilliams@oriontownship.org>  
Subject: Residential ZBA Documents for the September 26, 2022, ZBA Meeting

Attached are three ZBA residential cases that needs to be reviewed by you for the September 26, 2022, ZBA meeting.

Thanks,

Debra Walton  
Clerk  
Planning & Zoning  
2323 Joslyn Road, Lake Orion, MI 48350  
O: 248.391.0304, ext. 5002  
W: www.oriontownship.org
Lynn Harrison

From: Dave Ankersen <daveankersen@gmail.com>
Sent: Friday, September 9, 2022 9:44 AM
To: Lynn Harrison
Subject: AB-2022-40 setback variance for 805 Merritt

Lynn,

Thank you for your time today to discuss the variance request for my neighbors building project at 805 Merritt.

I want to confirm that I am ok with the variance request and wish them good luck with their project.

The only question/concern I have is that they are able to maintain access to their backyard without crossing my property.

Thank you,
Dave Ankersen
767 Merritt Ave, Lake Orion, MI 48362
248-978-4775