1. OPEN MEETING
2. ROLL CALL/PLEDGE OF ALLEGIANCE
3. MINUTES
   A. 09-27-2021 ZBA Regular Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing St., 09-03-278-027
      The petitioners are seeking to extend the expiration date for the approved AB-2020-08 ZBA case variances.
   B. AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning
      The petitioner is seeking 3 variances from Zoning Ordinance #78
         Article VI, Section 6.04, Zoned R-2
         1. A 9.73-ft front yard setback variance from the required 35-ft. to build a house 25.27-ft. from the front property line.
         2. A 12.85-ft. rear yard setback variance from the required 35-ft. to build a house 22.15-ft. from the rear property line.
         Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acres
         3. A 1,146-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812-sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.
   C. AB-2021-56, Steven Oja, Vacant Parcel #09-03-278-026, South of 576 Cushing
      The petitioner is seeking 4 variances from Zoning Ordinance #78
         Article VI, Section 6.04, Zoned R-3
         1. A 20-ft. rear yard setback variance from the required 35-ft. to build a house 15-ft. from the rear property line (road side).
         2. A 2-ft. side yard setback variance from the required 9-ft. to build a house 7-ft. from the side property line (north).
         3. A 1.2-ft. side yard setback variance from the required 9-ft. to build a house 7.8-ft. from the side property line (south).
         4. A 13.72% lot coverage variance above the allowed 25% for a total lot coverage of 38.72%.
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, September 27, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT (Board Member Location):
Dan Durham, Chairman
Don Walker, PC Rep to ZBA
Tony Cook, Vice-Chairman
Diane Dunaskiss, Board member
Tony Kerby, Alternate

ZBA MEMBERS ABSENT:
Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Linda Moran         Mark Muench             Bryce Albert         Becky Albert
Gary Quesada        Julie Dalym             Ken Zmijewski        Steven Wargo

1. OPEN MEETING/PLEDGE OF ALLEGIANCE
Chairman Durham called the meeting to order at 7:00 pm.

2. ROLL CALL
As noted

3. MINUTES

   A. 9-13-2021, ZBA Regular Meeting Amended Minutes

   Moved by Board member Walker, seconded by Board member Dunaskiss, to approve the minutes as presented.
   Motion carried.

4. AGENDA REVIEW AND APPROVAL

   Moved by Board member Dunaskiss, seconded by Board member Walker to approve the agenda as presented.
   Motion carried.

5. ZBA BUSINESS

   A. AB-2021-41, Orion Storage, 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002 (postponed from the 7/12/2021 ZBA meeting)

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 6 variances from Zoning Ordinance #78 – Zoned LI Article XVI, Section 16.04 – Area and Bulk Requirements
1. A 20-ft. side yard setback variance, from the required 25-ft., for a building to be 5-ft. from the property line (east).
2. A 12.52-ft. side yard setback variance, from the required 25-ft., for a building to be 12.48-ft. from the property line (west).
3. A 7.2% lot coverage variance, above the allowed 30%, for a total lot coverage of 37.20%.

Article XVI, Section 16.03(C)(3)
4. A 15-ft. off-street parking setback variance, from the required 20-ft., for parking to be 5-ft. from the property line (east).

Article XVI, Section 16.03(D)(2)
5. A 39-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 11-ft. (south).
6. A 37.52-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 12.48-ft. (west).

Mr. Gary Quesada introduced himself to the Board. He explained the issues from the last meeting and how they were resolved. If the request is approved by the ZBA, they do not have to go back to the Planning Commission. He stated that there are six variances being asked for; the attorney agreed with staff that #7 and #8 are eliminated.

Chairman Durham asked about the location of the property line.

Mr. Quesada replied that they believe it is mostly along the fence line. They did have the property surveyed for the civil and they do not have a problem re-surveying it. They have been working with the Polly Ann Trail personnel regarding the property line. The fence will be removed and they will back off of the property line and place landscaping in this area.

Chairman Durham asked if the parking would be inside of the fenced area to the west of where the fence is now.

Mr. Quesada replied yes. The parking lot will be away from where the fence is now.

Chairman Durham asked for public comment.

Linda Moran, Polly Ann Trail Manager, introduced herself to the Board. She noted that they have been working with Mr. Quesada. They have met several times and they have listened to their concerns and they have made adjustments. They are not opposed to the project and their concerns were completely satisfied.

Vice-chairman Cook asked if he could speak to the owner, Kenneth Zmijewski. He stated that they have had other projects where there were verbal agreements and then the business was sold. He asked if there is anything in writing regarding the agreements that have been made between himself and the Polly Ann Trail.

Mr. Zmijewski replied that he has no intention of selling the property. The only adjustment that they are making to their plan is shifting shrubs from one location to another location and this should satisfy the Polly Ann Trail staff. He has no problem putting these changes in writing. He explained his history in the community.

Chairman Durham stated that the Board is in receipt of a letter from Lake Orion Community Schools which says they support this project as designed. He asked if the hydrants are coming down to the business as part of a street project.

Mr. Quesada answered no. He described the location of the hydrant as approved by the Fire Department.
Board member Dunaskiss moved, and Board member Walker supported, in the case of AB-2021-41, Orion Storage, 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002 to grant the petitioner’s request for 6 variances from Zoning Ordinance #78 – Zoned LI, Article XVI, Section 16.04 – Area and Bulk Requirements including: a 20-ft. side yard setback variance, from the required 25-ft., for a building to be 5-ft. from the property line (east), a 12.52-ft. side yard setback variance, from the required 25-ft., for a building to be 12.48-ft. from the property line (west) and a 7.2% lot coverage variance, above the allowed 30%, for a total lot coverage of 37.20%. From Article XVI, Section 16.03(C)(3), a 15-ft. off-street parking setback variance, from the required 20-ft., for parking to be 5-ft. from the property line (east). From Article XVI, Section 16.03(D)(2), a 39-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 11-ft. (south) and a 37.52-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 12.48-ft. (west). Zoning Ordinance #78 – because the petitioner has demonstrated that the following standards for variance have been met in this case and they set forth facts in this case that show:

1. The petitioner does show the following practical difficulties; due to the characteristics of this property, the variances make sense and the efforts to work with the Polly Ann Trail staff and the community are appreciated.

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 shape of the property, the location of the property and close proximity to the Polly Ann Trail contribute to the need for these variances.

3. The variances are also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following findings of fact: the petitioner has made accommodations to make sure that the Polly Ann Trail and the School District are on board with this project and that their interests have been met. A letter was received from the School District stating their support of the project.

4. The granting of the variances or modifications will not be materially detrimental to the public welfare or materially injurious to the property or to the improvement in such zone or district in which the property is located based on the following: there will be no detriment.

5. Based on the following findings of fact, the granting this variances would not impair an adequate supply of light or air to the adjacent property, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire, or endanger of the public safety, and is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impact public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Durham, yes; Dunaskiss, yes; Cook, yes; Walker, yes. Motion passes 4-0. (Flood, absent)

B. ___AB-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 6 variances from Zoning Ordinance #78 – Zoned R-3

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

1. A 20-ft. front yard setback variance from the required 30-ft. to erect a 6-ft. fence 10-ft. from the front property line on the southeast side (road side).

2. A 20-ft. front yard setback variance from the required 30-ft. to erect a 6-ft. fence 10-ft. from the front property line on the northwest side (road side).
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. fence 0-ft. from the side property line (southeast).
4. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. fence 0-ft. from the side property line (northwest).

Article XXVII, Section 27.17 (B)
5. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (southeast).
6. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (northwest side).

Mr. Albert introduced himself to the Board. He stated that after speaking to the neighbor, he no longer wanted to install a 6 foot fence and now wants to install a 4 foot fence at the same setbacks. The fence would be erected on his side of the property line. He has confirmed with the neighbor and survey where the property line is located.

Chairman Durham confirmed that the 6 foot fence is now reduced to 4 foot.

Mr. Albert answered yes.

Building Official Goodloe stated that only the wetland variances would be applicable. The petitioner does not need a variance to erect a 4 foot fence on a property line.

Board member Walker confirmed that the petitioner does not need variances 1-4.

Chairman Durham stated that they are withdrawing the first four variance requests since they are not necessary with the reduction of a fence from 6 foot to 4 foot.

Mr. Albert stated that there is a chain link fence there now and this new fence will follow this fence line. The neighbor owns the chain link fence.

Chairman Walker stated that the Board received a letter from Kate Urdman that supports the variance request.

Board member Kerby stated that he would like to hear from Mr. Wargo regarding the wetlands setbacks.

Steve Wargo introduced himself to the Board and stated that he is the neighbor on the southeast side. There currently is a chain link fence and he explained the location of that fence. He stated that he paid for a survey and also had the line staked. The fence was put up by the previous owner of his property and he explained why the fence was installed. The fence does not go all of the way to the lake but it gets close. He would like to see the ordinances stay in place because he enjoys the birds and wildlife. The proposed fence would go on the other side of the chain link fence and he would want no ownership of that fence.

Chairman Durham asked if he has a concern that the proposed fence is going to go on his property.

Mr. Wargo answered no. It was staked so it is clear. He used the same surveyor as Mr. Albert. His only issue is the wetlands.

Board member Dunaskiss stated that the current chain link fence is about 5 feet from the wetlands.

Mr. Wargo replied he could drive a lawnmower tractor through there, but not too far.

Board member Dunaskiss asked if Mr. Wargo has any issue with the current chain link fence.
Mr. Wargo stated that he is leaving it up to the Board. He stated that it is very congested with overgrowth. He is okay with the decision of the Board.

Board member Dunaskiss stated that there is no issue with the chain link fence but there is an issue with another fence in the same area.

Mr. Wargo commented that it is up to how much they want to keep complicating the issue.

Chairman Durham commented that reducing it from 6 foot to 4 foot is important.

Board member Kerby asked about the height of the fence in the wetlands.

Mr. and Mrs. Albert confirmed that it was 4 foot.

Board member Walker asked why the fence is located in this area.

Mr. Albert commented that typically on a lake the front of the house is the lake side. He stated that he wants the fence there to define the area and for care and maintenance, it will be easier for everyone.

Mrs. Albert stated that this area stays dry and in this area, they currently have a woodpile and she provided photos of this area. There are no nests in this area.

Building Official Goodloe commented that they are not putting the fence in the wetland; but it would be closer to the wetland than the ordinance allows.

Chairman Durham asked if the fence is determined to be 5 feet away, could they still maintain their property.

Petitioner replied yes. They explained how they would maintain this area.

Board member Walker asked about the location of the fence.

Mr. Albert replied that it would be along the sides with nothing in the front.

Board member Walker asked them what if they did 10 feet less on both sides of the fence.

Mrs. Albert replied that it would look odd to have the fence some of the way but not the entire length. She provided pictures of the area for the Board.

Board member Kerby stated that he is trying to determine the practical difficulty for this case.

Mr. Albert stated that where the chain link fence is now, the neighbor has to come around to maintain the foot and a half that separates them. There is a wood pile there and vegetation and they are trying to alleviate this by having a fence that is on the actual property line so that it creates a proper line so there isn't a no man's land between them anymore.

Vice-chairman Cook commented on visiting the property. He suggested that the fence should go so far and the rest of the area is planted with vegetation to get the effect that they want but have a more natural look.

Mr. and Mrs. Albert stated that the vegetation would not be enough to determine where the property line is so this is one of the reasons for the fence so it would be clear where the line is. There is vegetation all along the chain link fence. They have come to an agreement where the property line is. He has a vision for the back of this property and he would like it aesthetically pleasing.

Vice-chairman Cook commented that they could clearly define the area with vegetation. Board member Walker agreed with Vice-Chairman Cook with the vegetation.
Mr. Albert stated that it is not their intention to block views and vegetation could grow quite tall.

Board member Dunaskiss stated that it appears that the petitioner wants clarification for maintenance purposes so it is very clear.

Mr. Wargo reiterated his comments regarding the request.

Chairman Durham provided the options to the petitioner regarding voting on the request.

Board member Dunaskiss asked the distance between where the proposed fence is going and where the existing chain link fence is in the wetland area.

Petitioner replied a foot and a half.

Board member Walker stated that they are asking for an exception to the ordinance and he explained what that means.

Mr. and Mrs. Albert asked for a vote on their request.

Building Official Goodloe stated that the intent of the wetland ordinance is to prevent harm, destruction or natural features of the surrounding area. He stated that the Board might want them to reduce the request to 10 feet, for example.

Mr. Albert replied that they could reduce it to 10 feet; they will amend their request.

Board member Kerby confirmed that he does not see the hardship.

Chairman Durham asked what is different about their property as compared to properties in the area.

Mr. Albert replied that there is not a house on the other side, it is a strictly a recreational area to bring boat in and out.

Mrs. Albert replied that they do not have a beach front; they have 80 feet of cattails. There are large trees on the ends of the property.

Mr. Albert replied that there is a lot of overgrown vegetation.

Chairman Durham stated that they also have the option to postpone.

Mr. Albert stated that they would like the Board to decide tonight.

Board member Kerby moved, and Board member Walker supported, in ZBA Case AB-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014, that the petitioner’s request for 2 variances from Article XXVII, Section 27.17 (B) including a 15-ft. wetland setback variance from the required 25-ft. to erect a 4-ft. fence 10-ft. from a wetland (southeast) and a 15-ft. wetland setback variance from the required 25-ft. to erect a 4-ft. fence 10-ft. from a wetland (northwest side) 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 any issues are self-created and do not meet the necessary requirement for the variances.

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 this same district or zone: there is nothing unique about the lot that prevents them from maintaining their lot in a fashion similar to everyone else in the neighborhood.
Roll call vote was as follows: Durham, yes; Dunaskiss, no; Cook, yes; Kerby, yes; Walker, yes. Motion passes 4-1.

6. PUBLIC COMMENTS
None

7. COMMUNICATIONS
A. Date Certain Memo

8. COMMITTEE REPORTS
None

9. MEMBERS’ COMMENTS
Board member Walker commented on the recent library used book sale.

10. ADJOURNMENT
Moved by Chairman Durham, seconded by Board member Kerby to adjourn the meeting at 8:09 pm.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
TO: The Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 30, 2021

RE: Case location for ZBA Meeting

In order to help you with scheduling your site visits, below is the general location of the cases you will need to visit for the October 11, 2021 ZBA Meeting.
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 30, 2021

SUBJECT: Staff Report for AB-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing Street for October 11, 2021 Meeting

This case was postponed from the August 23rd ZBA Meeting (minutes attached). The request was to extend the variances that were granted on March 23, 2020. No additional information has been received.

Please contact me if you have any questions.
2. The following are not exceptional or extraordinary circumstances applicable to the property involved in that they generally do not apply to other properties in the same district or zone in that in when most variances are issued, the property owners take action to move forward in the one year time frame that is set.

3. The variance is not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity.

4. The granting of the variance or modification will be materially detrimental to the public welfare or materially injurious to the property or to the improvement in such zone or district in which the property is located due to the fact that by the Board granting an extension on this case, the detrimental part is that it begins to cloud future decisions that the Zoning Board may make in reference to extensions whereas this is a full 24 months after the original variances were granted.

5. Based on the following findings of fact, this variance would not impair an adequate supply of light or not unusually increase congestion on the public streets since the driveways have not been set up. This variance would not increase danger of fire, or endanger of the public safety, and the Board has received a report from the Fire Department. This variance is not going to reasonably diminish or impair established property values. But in respect to rules that have been established, by granting this, it puts the Zoning Board in a position where they have not seen any of the current plans and it also does not prevent the current owners in coming forth and submitting plan to receive variances if they choose to.

Mr. Riddle stated that he would like to withdraw this case from this meeting.

Chairman Durham stated that they should have spoken up earlier; there is a motion and support on the floor. They will have the option to do that for the next case if they choose to.

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

Vice-chairman Cook asked if the new family would have an ability to come before the Board.

Chairman Durham indicated yes; they would have to submit a new application in accordance with ordinance procedures.

D. AB-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing St., 09-03-278-027

Chairman Durham read the petitioner’s request as follows:
The petitioners are seeking to extend the expiration date for the approved AB-2020-08 ZBA case variances.

Mr. Riddle stated that they would like to withdraw this case.

Ms. Diane Dunaskiss asked what the date for this parcel is.


Ms. Diane Dunaskiss asked if this puts it in the same category as the last parcel.

Chairman Durham replied in his opinion, yes. He asked if there was a date they would like to come back.

Trustee Flood asked if they are asking for withdraw or postpone.
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – August 23, 2021

Mr. Riddle stated that if the option on lot 1 is to start all over again, he is not sure what postponing would do as opposed to withdrawing.

Building Official Goodloe asked if they had soil erosion permits on this lot.

Mr. Riddle stated that they had soil erosion permits on all of them.

Chairman Durham replied that lot 1 is a new application. If they are postponing this case to a date certain, they are saying that they want to come back, reorganize and come to a meeting in the future.

Mr. Riddle confirmed that they would like to postpone to October 11, 2021.

Trustee Flood moved, and Chairman Durham supported, in case AB-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing St., 09-03-278-027 at the request of the petitioner to postpone this request until October 11, 2021 Zoning Board of Appeals meeting.

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

E. AB-2021-51, Gloria Sosa, 461 Heights, 09-11-307-015

Chairman Durham read the petitioner’s request as follows:
The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04, Zoned R-3

1. A 5-ft. side yard setback variance from the required 10-ft. to build a house 5-ft. from the side property line (east).
2. A 7.34% lot coverage variance above the allowed 25% for a total lot coverage of 32.34% (parcel section south of Heights Road).

Ms. Gloria Sosa introduced herself to the Board and summarized the variance request and the history of this request. She provided a summary of the materials provided to the Board members. She stated that there was a concern from the neighbors regarding water runoff and said that the builder can speak to that. She provided photographs of the recent rainfall on the property showing there was no runoff on her property.

Chairman Durham stated that this property has a substandard lot width. He stated that the historical information on the surrounding properties are difficult to evaluate because they do not know what ordinance was in place, who was the Building Official, etc.

Vice-chairman Cook commented that Ms. Sosa took the Board comments from the last meeting and made considerable improvements.

Trustee Flood stated that the Board already approved the nonconformity of the lot width. The last application asked for four variances and she is now asking for two. The lot coverage has also gone down. He stated that he appreciates the applicant working with her neighbors.

Chairman Durham asked for public comment.

Mr. Dave Plautz, Crest Homes, introduced himself as the builder for this lot. He stated that the lot presents challenges including the steepness of the lot. They are working with Kieft Engineering and the engineer designed the water flow which is a concern. The site plan shows the water flow on the lot and the road and they have to follow this plan which eliminates the chance for water to flow on someone else’s lot. He stated that they will maintain the ordinance height of 30 feet.

Trustee Flood asked if they were removing the existing garage.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: August 18, 2021

RE: AB-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing St., 09-03-278-027

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-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing St., 09-03-278-027. I would move that the petitioner’s request
to extend the expiration date for AB-2019-23 ZBA case

be granted because the petitioner did demonstrate that the following standards for this request 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-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing St., 09-03-278-027. I would move that the petitioner’s request
to extend the expiration date for AB-2019-23 ZBA case:

be denied because the petitioner did not demonstrate that the following standards for this request 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
Planning Division
2525 Joslyn Rd., Lake Orion MI 48360
P: (248) 391-0304 ext. 5001; Fax (248) 391-1454

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: August 23, 2021

SUBJECT: Staff Report for AB-2021-50, Mike Riddle, Vacant Parcel 2 Parcels South of 576 Cushing Street

The petitioner is asking for an extension of the variances granted for the above parcel on March 23, 2020. Granted variances are good for 1-year – once a building permit is pulled, that “clock” stops.

Please refer to the Township Attorney’s Confidential opinion regarding extending a variance expiration date.

Included in the packet are the minutes from the ZBA meeting where the variances were granted.

Deliberate on this request and if you feel the extension should be granted – include in your motion when the variances will now then expire.

Please contact me if you have any questions.
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

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

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

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

APPLICANT

Name: Mike Riddle
Address: 5299 Pine Ridge Dr. City/State/Zip: Holly, MI 48442
Phone: (248) 287-6188 Cell: (248) 318-9584 (best) Fax:
Email: mra2885@ AOL.com

PROPERTY OWNER(S)

Name(s): Mathew Dunaskiss
Address: 535 Cushing Rd City/State/Zip: Lake Orion, MI 48362
Phone: (248) 633-1391 Cell: (248) 790-1343 Fax:
Email: mat@dunaskiss.biz

CONTACT PERSON FOR THIS REQUEST

Name: Mike Riddle Phone: (248) 318-9584 Email: mra2885@ AOL.com

SUBJECT PROPERTY

Address: Lot 2 Cushing St. Sidwell Number: 09-03-278-027
Total Acreage: ___________________ Length of Ownership by Current Property Owner: 7 Years, 0 Months

Does the owner have control over any properties adjoining this site? ___________________
Zoning Ordinance
Allowance/Requirement ___________________ Deviation requested ___________________
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **We are asking for an administrative extension for the approved variance (AB-2020-08 March 23, 2020) due to COVID economic conditions with labor + material shortages.**

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. **Previous applicant (Patrick Raye) did not complete purchase of property due to COVID economic conditions.**

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:

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

4. Explain how the request is/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.

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
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:
(must be original ink signature) _______________________________ Date: 7-19-21
Print Name: Mike Riddle

Signature of Property Owner:
(must be original ink signature) _______________________________ Date: 7-29-21
Print Name: Mathew Duraskiss

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: ____________
ft. wetland setback variance. That is what the request is and that is what they will have to vote on. Even though in reality the line is much farther back to the water and the request is less if he does own the property. If they can’t settle that then they will have to postpone it until they find out if he owns the property or not.

Vice-Chairman Durham asked if he has given the up the right of the ownership of the property for the purposes for the variances tonight. That is why the numbers are so high? Does he want to basically get started on his build?

Planning & Zoning Director Girling replied yes.

Chairman Yaros asked if there was anyone else to speak to this matter? There was not. Planning & Zoning Director Girling noted that there were no emails.

Vice-Chairman Durham asked if Mr. Doski thought that the height of the addition, up on top of the garage would block the view of anyone else, as far as the lake goes? Mr. Doski replied he did not. The neighbors across the street are the only ones that any kind of view might change but they are also are on a lake and they have a view of the lake off the back of their property. He didn’t think the view would affect anybody. Most of his neighbors are aware of what they are doing and haven’t spoken any ill-will against it.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-07, Ryan Doski, 965 Pine Tree Road West, 09-10-203-001, I would move that the petitioner’s request for three (3) variances from Zoning Ordinance 78, Article VI, Section 6:04 R-3: 1) a 21-ft. rear yard setback variance from the required 35-ft. to add a second story addition 14-ft. from the rear property line; Article XXVII, Section 27.03(C) 2) a 32-ft. rear yard setback variance from the required 32-ft. (with projection allowance), to erect a second story balcony/terrace 0-ft. from the rear property line; Article XXVII, Section 27.17(B) Wetland Setback 3) a 9.2 -ft. wetland setback variance from the required 25-ft. to erect a second story balcony/terrace 15.8-ft. from a wetland be granted because while the variances are large in size if there are some changes in delineated ownership of the property, and legal ownership they may have not been this large; the petitioner does show the following Practical Difficultly: he would like to enlarge his home, he has stated that it will be his forever home; the neighbors have no issues with this; it would bring the petitioners property more in line with the other properties in the area; the following are exceptional or extraordinary circumstances: the lots in that area are strangely shaped and were platted, a long time ago, and they involve conditions that do not apply generally to other properties in the same district; the variance would be helpful for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zone or vicinity base on the fact: the lot is small, and he has a nice size home there now but he would like to enlarge it as his family enlarges and bring it in line with other properties in the area; 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: it will make the house fall into line with other houses; the granting of this variance would not: impair an adequate supply of light and air to adjacent property; it will not unreasonably increase the congestion in the public streets; there will be no Fire Department issues; it will not unreasonably diminish or impair established property values within the surrounding area; or, in any other respect, impair the public health, safety, comfort, morals, or welfare of the Township.

Roll call vote was as follows: Durham, yes; Kosciertzynski, yes; Walker, no; Yaros, yes. Motion Carried 3-1 (Flood absent)

**AB-2020-08, Patrick Raye, Vacant Parcel on Cushing Street, 09-03-278-027**

Chairman Yaros read the petitioner’s request as follows: 22
The petitioner has requested eight (8) variances from Zoning Ordinance No. 78:

Article XXVII, Section 27.01(C)(1)(b), Lot Width 60 to 65 feet:

1) A 2.80-ft. side yard setback variance from the required 8-ft. to build a house 5.20-ft. from the side property line (south).
2) A 2.63-ft. side yard setback variance from the required 8-ft. to build a house 5.37-ft. from the side property line (north).

Article VI, Section 6.04 – Zoned R-3:

3) A 9.36-ft. front yard setback variance from the required 30-ft. to build a house 20.64-ft. from the front property line (lakeside).
4) A 14.99-ft. rear yard setback variance from the required 35-ft. to build a house 20.01-ft. from the rear property line.
5) A 21.36-ft. front yard setback variance from the required 30-ft. to build a deck 8.64-ft. from the front property line (lakeside).
6) A 15.98% lot coverage variance above the allowed 25% for a total lot coverage of 40.98%.

Article XXVII, Section 27.17(B)

7) A 4.36-ft. wetland setback variance from the required 25-ft. to build a house 20.64-ft. from a wetland.

Article XXVII, Section 27.03 (C)(3)(b)

8) An 11.36-ft. water’s edge setback variance from the required 20-ft. to build a deck 8.64-ft. from the water’s edge.

Planning & Zoning Director Girling noted that the petitioner had amended his request so it is fine they advertiser for larger but he has reduced what he is asking for. He might want to address during his presentation how he has reduced some of those numbers.

Chairman Yaros asked the petitioner to give the Board that information.

Mr. Patrick Raye, 1231 Lacrosse Trail, Oxford, MI, the petitioner presented. He stated that he has been working with Mat Dunaskiss, Mike Riddle and Rison Construction. Determining the request that they needed, they took a look at lot one (1) approval that the Board passed some time back. Mike Riddle would have to speak to exactly when that was. The goal is uniformity, originally, they were slightly closer to the water and their concern was that the idea is to make sure that all of those on that cove are in line so that nobody is impeding to close or too far. The hardship is the lot side and the grade. This home is for himself, his wife and his four (4) kids. They have been searching on Lake Orion for a long time and have a lot of friends on Lake Orion, and just couldn’t find anything that would work for them so a new build was their best option. The size changes were due to not wanting the house further ahead of the proposed house on lot #1. They scaled the house back and made the house envelope slightly smaller and gave more room on the two (2) side lot lines to accommodate what they would need for a proper watershed.

Chairman Yaros wanted to know what numbers had changed from the original request.

Mr. Raye replied that 1) originally was to build a house 5.20-ft. from the property line on the south side, it is now 5.32-ft. 2) the original north property line request was 5.37-ft. and they are now 5.59-ft. 3) was 20.64-ft. from the property line, it is now 18.04-ft. 4) rear yard setback variance from the 35-ft. was
20.01 from the rear property line it is now 26-ft. 5) The deck at 8.64-ft. is now 10.12-ft. He stated he
didn't know what the lot coverage was or the wetland setbacks were.

Chairman Yaros said that he looked at the house next door, the way the rocks were, he wasn't sure
they could get in between the buildings with emergency vehicles. He thought it was a lot of variances.
He said it will almost totally be covering the lot. They are asking for a 4.36-ft. wetland setback variance
to be 20-ft. from a wetland and to be 8.64-ft. from the water's edge. He has a problem with so many
variances, on this lot.

Secretary Koscielczyński said that as far as first responders or firefighters getting to the property. The
Fire Marshal reviewed the proposed documents and had no concerns.

Vice-Chairman Durham felt that he didn't think that anyone could carry any gear in between the homes.

Mr. Raye said that his home does not have a house either side of it. He thought that he was looking at
the parcel next to lot number one (1).

Vice-Chairman Durham questioned when he sees this many variances on that small of a lot, it has a
feel of an overbuild for the lot; is that something he considered?

Mr. Raye said if they took what they were allowed to build here they wouldn't have much of a home to
build at all. He thought that no matter how big the house is or even if they build a home that is realistic
for today's age and the values they see on Lake Orion and what people are looking for and what they
are looking for, they would be looking at this many variances no matter what. The problem they have is
the grade and the side yards. Without most of these, even if they adjusted the number one way or
another there would be this quantity of these variances or at least close.

Vice-Chairman Durham noted that he was at the bottom of that lot looking up trying to figure how they
would navigate from the back of that house to the front on the inside from that fall off.

Mr. Raye questioned what he meant on the inside, between the house?

Vice-Chairman Durham replied if you are living inside the house the lot falls off to such a degree the
roadside of the house will be dramatically elevated from the lakeside.

Mr. Raye said that is correct; if you look up the street all three (3) houses are built in that fashion.
Especially the one that is existing there. They have to put a little retainment on the sides, it will be an
interesting basement but that is what they are dealing with on that piece of land. Most of the homes on
that side of the street have that challenge.

Vice-Chairman Durham asked because there are no houses there now, can the petitioner pick what is
the front yard and what is the back yard?

Planning & Zoning Director Girling replied that is correct.

Vice-Chairman Durham thought that the front yard had to boarder on a street.

Planning & Zoning Director Girling said that there are certain parts of the ordinance says that the street
side is the front, but not when it comes to calculating the setbacks. They can choose the lake as the
front, or the road as the front and that can affect the setbacks.

Chairman Yaros asked if the original setback from the road was going to be 20.64-ft. and now they are
proposing 18-ft. 20.64-ft. was small to start with, he looked at the houses down the street with similar
setbacks they are right out to the road with their trucks and cars, most are larger than that. Can they keep the 20.64-ft.?

Mr. Raye replied absolutely; no problem at all.

Chairman Yaros asked what was the square footage of the house proposed?

Mr. Mike Riddle, Rison Construction 15299 Pine Ridge Dr., Holly, MI. Mike replied that is 2,700-sq. ft. total.

Chairman Yaros asked if he got the 20-ft. back from the road would that change the square footage at all?

Mr. Raye replied yes; they are trying to have an attached garage because a detached garage would be impossible. What he could do is move some things around and make some compromises.

Chairman Yaros thought that 2,700-sq. ft. is not an overly huge building on the lake. That is within reason. His issues were solved except for the deck being that close to the water’s edge.

Secretary Koscielny said that she thought that there was a house on Heights Rd. where it was about the same distance as this was going to be. She thought that Heights Rd. one was even closer than this.

Secretary Koscielny asked what the practical difficulty was?

Mr. Raye replied looking at the lot, there is grade issues, setbacks issues, the size of the lot issues. They originally wanted to be in a 3,200-sq. ft. home, because they have four (4) children, and they already made conceptions to get to this point. He would not want to go any smaller so that is his practical difficulty.

Chairman Yaros asked what the lot coverage would be? They need to get the coverage on record after the changes that were made.

Planning & Zoning Director Girling replied that with what they had done, they moved around the home so the setbacks changed. She thought the lot coverage would change slightly but it was already calculated and if all of the other variances are granted then granting the extreme, and she said extreme because they always advertise for the largest. If he is saying in order to meet that 20-ft. that he has to decrease the house slightly then they are giving a little bit more on lot coverage that he actually needs but he is bound by the setbacks if they are going to grant them.

Chairman Yaros asked on #4 it states that a 14.99-ft. rear yard setback variance from the required 35-ft. to build a house 20-ft. now he is proposing 26-ft., that is going to change the coverage considerably. He thought they needed to have an exact number here.

Planning & Zoning Director Girling asked if he found the email that Lynn had sent that had stricken and put in the setback that the petitioner is now asking for?

Chairman Yaros replied no.

Board Member Walker said that he received the email about 4 pm and he did a rough mathematical sketch and seemed to him that it was almost even after the deletions and additions and if you put it all together, the square footage seemed to be the same.
Mr. Raye said that his lot coverage would decrease because he is taking 6-ft. off the back and adding 2-ft. on the front approximately. He felt he would be reducing the amount of coverage.

Chairman Yaros thought the same, and would not be over the coverage.

Mr. Raye felt he would be in the mid to high 30’s.

Chairman Yaros asked if they should have that calculated before they vote?

Planning & Zoning Director Girling replied that if all the other variances are being granted, and he is held on where he can have each distance to each property line, and if they are comfortable with granting the lot coverage as he asked versus the actual calculation. He can’t get any closer to any of the property lines than what the variances are granting.

Chairman Yaros said that in fact, he changes the #3 request to the 20.64 from the front property line which stays then at the request of 9.36-ft. front yard setback variance. He didn’t have a problem with this because it is a 2,700-sq. ft. home.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2020-08, Patrick Raye, Vacant Parcel on Cushing Street, 09-03-278-207, I would move that the petitioner’s request for eight (8) variances from Zoning Ordinance No. 78: Article XXVII, Section 20.07(C)(1)(b), Lot Width 60 to 65 feet: 1) a 2.68-ft. side yard setback variance from the required 8-ft. to build a house 5.32-ft. from the side yard property line (south); 2) a 2.41-ft. side yard setback variance from the required 8-ft. to build a house 5.59-ft. from the side property line (north); Article VI, Section 6.04 — Zoned R-3: 3) a 9.36-ft. front yard setback variance from the required 30-ft. to build a house 20.64-ft. from the front property line (lakeside); 4) a 20.98-ft. rear yard setback variance from the required 35-ft. to build a house 26-ft. from the rear property line; 5) a 19.88-ft. front yard setback variance from the required 30-ft. to build a house 10.12-ft. from the front property line (lakeside); 6) a 15.98% lot coverage variance above the allowed 25% for a total lot coverage of 40.98%; Article XXVII, Section 20.17(B): 7) a .5-ft. wetland setback variance from the required 25-ft. to build a house 24.95-ft. from a wetland; Article XXVII, Section 20.03(C)(3)(b): 8) a 9.88-ft. water’s edge setback variance from the required 20-ft. to build a deck 10.12-ft. from the water’s edge, be granted because the petitioner does show the following Practical Difficulty: they have a very odd shaped lot with a sewer pitch from back to front, it boarders on a lake, he is not building an oversized house, he is going through all these hoops to get a moderately sized house for himself and his four (4) children: the following are exceptional or extraordinary circumstances or conditions: it is the shape, size and the elevation; the variances are necessary for the preservation and enjoyment of a substantial property right: he has stated he wants to live on Lake Orion and has found a place to do it and we encourage people to invest in the community and that is what he is seeking to do; 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: he is going to be sitting in with housing around him and will have a lot on each side that will eventually have a house similar to the proposed house now; the granting of this variance would not impair an adequate supply of light and or anything else required by the people of this community; it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger the public safety, the Fire Marshal has no issues; it will not unreasonably diminish or impair established property values: if anything it will increase the property values; it will not in any respect impair the public health, safety, comfort, or morals.

Discussion on the motion:

Planning & Zoning Director Girling questioned #4 and wanted to understand correctly. Originally, he was asking for 14.99-ft. rear yard setback variance and then he modified it to be a 16.96-ft. rear yard
setback variance and if those numbers are still the same then they are granting a number that is larger than what was advertised.

Chairman Yaros replied that it was his understanding that he was asking for 26-ft. from the rear property line is 9-ft.

Planning & Zoning Director Girling said then #4 would be a 9-ft. rear yard setback variance from the required 35-ft. to build a house 26-ft. from the rear property line.

Roll call vote was as follows: Walker, no; Durham, yes; Koscierzynski, yes; Yaros, yes.  
Motion Carried 3-1 (Flood absent)

6. PUBLIC COMMENTS
One heard

7. COMMUNICATIONS
Memo from Planning & Zoning Coordinator Lynn Harrison dated March 23, 2020, regarding date certain options.


8. COMMITTEE REPORTS
None

9. MEMBERS’ COMMENTS
None heard

10. ADJOURNMENT
Moved by Vice-Chairman Durham, seconded by, seconded by Secretary Koscierzynski, to adjourn the meeting at 8:39 pm.

Roll call vote was as follows: Koscierzynski, yes; Durham, yes; Walker, yes; Yaros, yes.
Motion Carried 4-1 (Flood absent)

Respectfully submitted,

[Signature]

Debra Walton  
PC/ZBA Recording Secretary  
Charter Township of Orion

April 27, 2020  
Zoning Board of Appeals Approval
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 30, 2021

SUBJECT: Staff Report for AB-2021-55, Tim Petersen, Vacant Parcel #09-20-256-012, East of 2585 Browning

The applicant is proposing to build a home on the vacant parcel. The submitted plans indicate there are two attached accessory structures to the home which is permitted by the Zoning Ordinance.

The total square footage of the two accessory structures do not exceed the 75% maximum floor area of attached accessory buildings allowed.

Also, the 25% maximum lot coverage is not exceeded.

In the packet is a copy of approval from the Keatington Home Owner’s Association and a copy of the “Agreement and Restrictions” for Keatington Shores. The document indicates reduced setbacks for lots 1 thru 64 (the subject lot is 9). The Township does not regulate Home Owner’s Association criteria therefore the applicant has to adhere to the Township Zoning Ordinance which, in this case, is more restrictive.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 29, 2021

RE: AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

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-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning, I would move that the petitioner’s request for:  

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

Article VI, Section 6.04, Zoned R-2

1. A 9.73-ft front yard setback variance from the required 35-ft. to build a house 25.27-ft. from the front property line.

2. A 12.85-ft. rear yard setback variance from the required 35-ft. to build a house 22.15-ft. from the rear property line.

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acres

3. A 1,146-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812-sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

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-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning, I would move that the petitioner’s request for:

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

Article VI, Section 6.04, Zoned R-2

1. A 9.73-ft front yard setback variance from the required 35-ft. to build a house 25.27-ft. from the front property line.

2. A 12.85-ft. rear yard setback variance from the required 35-ft. to build a house 22.15-ft. from the rear property line.

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acres

3. A 1,146-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812-sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

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

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

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

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

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

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

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

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

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

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

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

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

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

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

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

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

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

APPLICANT

Name: Tim K. Petersen
Address: 2602 Browning Dr. City/State/Zip: Lake Orion, MI 48360
Phone: Cell: 248-863-6940 Fax: __________
Email: tinekpetersen@comcast.net

PROPERTY OWNER(S)

Name(s): Tim K. Petersen & Pamela L. Petersen Living Trust
Address: 2602 Browning Dr. City/State/Zip: Lake Orion, MI 48360
Phone: N/A Cell: 248-863-6940 Fax: __________
Email: tinekpetersen@comcast.net

CONTACT PERSON FOR THIS REQUEST

Name: Tim Petersen Phone: 248-863-6940 Email: tinekpetersen@comcast.net

SUBJECT PROPERTY

Address: Vacant Parcel

Total Acreage: 4

Length of Ownership by Current Property Owner: 21 Years, 4 Months

Sidewell Number: 09- 20- 256- 012

Q-2

Does the owner have control over any properties adjoining this site? Yes, Home across the street

Zoning Ordinance
Allowance/Requirement

Deviation requested

Page 1 of 3
Version 5/10/18
Case #: 

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. Request Front ≠ Rear setback variance commensurate with variances granted neighbors.

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. Large, 4 acre pie-shaped lot.

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: No detriments envisioned. This planned home will be the last home constructed on Browning Dr. It is the most expensive & attractive back lot home.

4. Explain how the request is/ is not consistent with other properties in the immediate area, please cite examples if possible: See 3 attached examples (of many) where variances were granted beyond this request.

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

6. The topography of said land makes the setbacks impossible to meet because: Not applicable. No topo issues.

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 would require a home design that is short on the road side, deep placed on the far east side of the lot. This would have poor aesthetic proportions & wipe out the eastern tree line.
Case #: 

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

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

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

Signature of Applicant: [Signature] Date: 8/31/21
Print Name: IMK PETERSEN

Signature of Property Owner: [Signature] Date: 8/31/21
Print Name: PAMELA PETERSEN

If applicable: I, the property owner, hereby give permission to JOSEPH LAZATOZAS 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: ___________________
6. Household animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical system components that could, or are likely to, produce noise, odor, or other nuisances shall not be located adjacent to an adjoining property owner's living or sleeping area where windows and/or doors would be exposed to the nuisance.

It is the intent of these provisions to place the responsibility of abating or controlling nuisances on the owner of the lot where the nuisances are produced, rather than on the adjoining neighbors.

7. Accessory buildings or structures are not to be used for commercial operations other than home occupations, as defined in Article II, Section 2.01.

8. The total of all accessory buildings or structures in a single-family residentially zoned district or on a parcel used for a single-family dwelling, except as modified in Paragraph 9, shall not exceed the following (amended 11-28-83):

<table>
<thead>
<tr>
<th>LOT SIZE</th>
<th>MAXIMUM FLOOR AREA OF DETACHED ACCESSORY BUILDINGS</th>
<th>MAXIMUM FLOOR AREA OF ATTACHED ACCESSORY BUILDINGS</th>
<th>TOTAL MAXIMUM FLOOR AREA OF ALL ACCESSORY BUILDINGS *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1/2 acre</td>
<td>750 sq. ft.</td>
<td>75% of the principal structure</td>
<td>1,150 sq. ft.</td>
</tr>
<tr>
<td>1/2 to 1 acre</td>
<td>900 sq. ft.</td>
<td></td>
<td>1,300 sq. ft.</td>
</tr>
<tr>
<td>1 to 2.5 acres</td>
<td>1,000 sq. ft.</td>
<td></td>
<td>1,500 sq. ft.</td>
</tr>
<tr>
<td>Over 2.5 acres</td>
<td>1,400 sq. ft.</td>
<td></td>
<td>1,900 sq. ft.</td>
</tr>
</tbody>
</table>

* Includes the combined floor area of each story of the structure.

9. The total area of all accessory buildings or structures on a single-family residentially zoned parcel shall not exceed the above noted area, except in the following cases after consideration and approval by the Zoning Board of Appeals (amended 11-28-85 06/15/15):

a. On single-family residential lots, a variance may be sought to permit increased accessory building structure or use, provided all of the following conditions are met:

i. The accessory building or structure is aesthetically compatible with, and constructed of the same color as the principal residential building or structure.

ii. The accessory building or structure, as well as the principal residential building or structure, can be accommodated on the parcel and together cover no more than twenty percent (20%) of the lot area in the Suburban Farms (SF), Suburban Estates (SE), or Suburban Ranch (SR) Zoning Districts or twenty-five percent (25%) of the lot area in the Residential 1, 2, or 3 (R-1, R-2, R-3) Zoning Districts.

iii. The principal residential building or structure contains at least the minimum floor area of living space as required for the specific zoning district and as set forth in the specific zoning district of this Zoning Ordinance. (amended 07-16-18)

iv. The accessory building or structure is used for the indoor storage of items that are permitted to be stored in a rear or side yard, but that could be unsightly if such were done.

b. On parcels of more than five (5) acres in size used for agricultural purposes, a variance may be sought from the Zoning Board of Appeals to permit additional accessory buildings or structures for the purpose of storing agricultural implements, equipment, products, livestock, and similar items.
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>Minimum Lot Area</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
</tr>
</thead>
<tbody>
<tr>
<td>14,000 sq. ft.</td>
<td>10,800 sq. ft.*</td>
<td>8,400 sq. ft.*</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minimum Width of Lot</th>
<th>100 ft.</th>
<th>80 ft.</th>
<th>70 ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Setbacks (in feet)</td>
<td>Front Yard**</td>
<td>40 ft.</td>
<td>35 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>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minimum Floor Area/Unit</th>
<th>1,320 sq. ft.</th>
<th>1,080 sq. ft.</th>
<th>960 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Lot Coverage</td>
<td>25%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Maximum Floor Area of All Accessory Buildings</td>
<td>See Section 27.02, A, 8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Height of Structures</th>
<th>30 ft.</th>
<th>30 ft.</th>
<th>30 ft.</th>
</tr>
</thead>
</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 10.06.98, 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.
AB-2021-55, Tim Petersen, vacant parcel
09-20-256-012, east of 2585 Browning
.404 acres = 17,598.24 sq 25% = 4,399.56 sq

Front yard setback required 35-ft is 25, 27-ft variance of 9.73 ft
Side yard setbacks required 10-ft west is 106.3’ East is 20’ OK
Rear yard setback required 35-ft is 22.15-ft variance of 12.85-ft.

Lot Coverage:
House 1st Floor = 1,285.5 sq
Attached Garage = 1,484 sq (see 9/14/2021 email)
Attached Accessory Structure = 812 sq (see 9/14/2021 email)

$\sqrt{1,581.50}$ Lot coverage OK

Accessory Structure variance:
Allowed 1,150 sq
Attached Garage - 1,484 sq
Attached Accessory Structure - 812 sq

1,146 sq variance

Attached accessory Structure maximum 75% OK

Total house square footage 3,915.5
75% = 2,936.64 sq
Attached Accessory Structures = 2,296 sq OK
Lynn, I doubt it matters but I remeasured and calculated the square footage of the two garages including the walls. The west (smaller) garage is 812 sq ft and the larger east garage is 1484 sq ft for a total of 2296 sq ft. Only slightly smaller than the footages below. The variance request would therefore be for 1146 vs the 1210 below. The front and rear setback requests are correct. thank you, tim

On 09/14/2021 4:02 PM Lynn Harrison <lharrison@oriontownship.org> wrote:

Tim, below is the variance language I am proposing for you to build on the vacant parcel known as sidwell #09-20-256-012 per the plans provided. Please review it and let me know, via this email, whether you agree with it or if it needs to be revised. I need your response by Friday morning, 9/17, as that is the deadline to get the public hearing notice to the paper for the October 11, 2021 ZBA meeting.

**AB-2021-55, Tim Petersen, Vacant Parcel, 09-20-256-012 Browning**

The petitioner is seeking 3 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-2

1. A 9.73-ft front yard setback variance from the required 35-ft. to build a house 25.27-ft. from the front property line.

2. A 12.85-ft. rear yard setback variance from the required 35-ft. to build a house 22.15-ft. from the rear property line.

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acres

3. A 1,210-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,520-sq. ft. attached garage and a 340-sq. ft. attached accessory building for a total of 2,360-sq. ft. total maximum floor area of all accessory buildings.

Thank you,

Lynn Harrison
Coordinator
Planning & Zoning
## Variance Calculations

<table>
<thead>
<tr>
<th>Allowed Sq. Ft. of All Accessory Buildings</th>
<th>1,150 sq. ft.</th>
<th>1,150 sq. ft.</th>
<th>1,150 sq. ft.</th>
<th>1,150 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attached Garage</td>
<td>1,484-sq. ft.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attached Accessory Building</td>
<td>812-sq. ft.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Variance</strong></td>
<td><strong>1,146-sq. ft.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Allowed Max Sq. Ft. of All Detached Accessory Buildings</th>
<th>sq. ft.</th>
<th>sq. ft.</th>
<th>sq. ft.</th>
<th>sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attached Garage</td>
<td>Not Applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Detached Structure</td>
<td>Not Applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Pole Barn</td>
<td>Not Applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Variance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The 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: Courtney Keisman <ckeisman@oriontownship.org>
Sent: Thursday, September 23, 2021 9:16 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Documents for the October 11, 2021 ZBA Meeting

Mr. Williams,

Hello Jeff. Attached is 2 ZBA residential cases that need to be reviewed by you for the October 11, 2021 ZBA Meeting.

Thank you,

Courtney Keisman
Clerk
Planning & Zoning
2525 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5003  F: 248.391.1454
W: www.oriontownship.org
Sept 1, 2021

To: Orion Township Zoning Board of Appeals
From: Tim K Petersen

2602 Browning Dr, Lake Orion

Subject: front and rear setback variance request parcel # 09-20-256-012 Keating Shores Sub

We have owned the lot across the street from our home since 2000 and have decided to build a Frank Lloyd Wright prairie style carriage house on the property. When Keatington Shores was developed, there were many odd shaped lots created along Browning Drive. This lot #9, parcel # 09-20-256-012, is a long pie shaped lot with 199’ frontage feet on Browning. It is the last undeveloped lot in this subdivision. When purchased, we were provided a copy of the Keatington Shores Agreement and Restrictions (liber 7575 pages 872-877). On page 875 (attached), it lists the acceptable setbacks by lot number by the developer. Specifically in our case, the document states all front setbacks on Browning Dr (lots 1-64) may be reduced to 25 feet and the rear setback for lot #8 and 9 reduced to 20 feet. The document also lists side setback reductions for many other lots that do not apply to our situation due to the very long lot.

We are requesting a front and rear setback variance consistent with the Keatington Shores Agreement and Restrictions document. We have submitted just 3 examples where homes on our street have been built to these variances and in some cases beyond what was allowed.

The most relevant example is my neighbor to the west (lot #8, parcel # 09-20-328-016), who has a mirror image of our pie shaped lot, but smaller. We are requesting less variance than what was granted for that home. Our request is a 22’ rear setback and a 25’ front. The side setbacks are in excess of the R-2 and R-3 10’ requirement and the home is placed E-W to retain many mature trees. This home will be a positive addition to the sub and compliments the surrounding homes of various styles.

Thank you for your consideration. I may be traveling when this request is scheduled for discussion, but can be contacted by phone or zoom if there are questions. If this is not acceptable, the designer Joseph Lastozas, cell 248 462 5421 will represent me. Tim K Petersen 248 863 6940
8/12/2021

Re: HOA Construction Plan Approval

To Whom It May Concern,

At our monthly board meeting on August 10, 2021 the KHA Board voted in support for Tim Petersen to proceed with his home construction plan for his property at 26XX Browning Dr. It is the opinion of the board that his plan, as submitted, meets the requirements of the KHA bylaws and is not in violation of any deed restrictions or architectural guidelines.

Please let me know if you have any questions.

Regards,

[Signature]

Brian Curtis
Keatington Homeowners' Association
Architectural Control Committee Chairperson
Email: architecture@khalivingisavacation.com
AGREEMENT AND RESTRICTIONS
KEATINGTON SHORES

WHEREAS, the undersigned, Hilltop Company, as owner, has executed a plat for Keatington Shores, a subdivision of part of Section 20, T4N, R10E, Orion Township, Oakland County, Michigan, which plat is recorded in Liber 167 of Plats, Pages 34, 35, 36 & 37 Oakland County Records; and

WHEREAS, it is the intent and purpose of said party to subject the said Subdivision to certain building and use restrictions, covenants, conditions, obligations, reservations, rights, powers and charges, as hereinafter set forth;

NOW, THEREFORE, for a valuable consideration and in consideration of the agreement of others and of the plan and purpose of said Subdivision and to the end that it may be restricted in its use so that it will develop into a residential community of the highest type, and in order to make said building restrictions, covenants, conditions, obligations, reservations, rights, powers and charges, binding and of full force and effect on all the above described premises, and upon the present and future owners and occupants of the same, the undersigned hereby certifies, declares and agrees that all of the above described premises shall if and when conveyed, be subject to and charged with all of the building and use restrictions, covenants, and charges, hereinafter set forth in this instrument and the record of this instrument in the Office of the Register of Deeds for Oakland County, Michigan, shall be notice of said restrictions to all purchasers of said premises.

1. With the exception of Lot 64, all of the said lots shall be used only for private residence purposes and no structure shall be erected, altered, or permitted to remain on any residential lot other than one single private family dwelling with attached private garage for not less than two (2) cars. No detached garages shall be permitted. No dwelling shall exceed two stories except that a tri-level may be allowed in the discretion of the Architectural Control Committee.

2. Trailers, mobil homes, tents, shacks, barns, or any temporary building of any design whatsoever, are expressly prohibited within this Subdivision and temporary residence shall not be permitted in unfinished residential buildings. This shall not prevent the erection of a temporary storage building for materials and supplies to be used in the construction of a dwelling which shall be removed from the premises on completion of the building. Boats shall be stored with proper and adequate coverings in the rear of residences except as may be otherwise permitted by the Architectural Control Committee.

3. No lot shall be reduced in size by any method whatsoever. Lots may be enlarged by consolidation with one or more adjoining lots under one ownership. In the event one or more lots are developed as a unit, all restrictions herein contained shall apply as to a single lot. In any event no dwelling shall be erected, altered, placed or permitted to remain on any site smaller than one lot as shown on the recorded plat.

4. No residence shall be erected or constructed on any lot which has

NOTE: This is not an official copy of the Agreement and Restrictions Keatington Shores. It is a PDF made from a Microsoft Word manual recreation of the KHA master
18. The owner of every lot in Keatington Shores shall automatically become a member of Keatington Home Owner's Association, a Michigan Non-Profit Corporation, which membership confers privilege of the use of the beach facilities on Outlot "C", Keatington subdivision No. 2 as recorded in Liber 5525, Page 657, Oakland County Records; further said membership shall be subject to the imposition of such dues and such assessments as cost of maintenance and/or improvement of said Outlot "C". Such dues and assessments shall be due and payable within thirty (30) days of billing and shall not exceed Forty and 00/100 ($40.00) Dollars per lot annually. In the event any member shall fail or refuse to pay such dues or assessments when due, the Register of Deeds for Oakland County against the lot of such delinquent member, showing the amount due and owing as a lien on such lot until fully paid. Upon Payment, he Association shall issue an appropriate discharge of such lien in a form eligible for recording.

19. The owner of every lot in Keatington Shores shall, as a member in good standing of Keating Home Owner's Association, be entitled to and subject to all of the rights, privileges and obligations of said Association, as provided in its Articles of Incorporation and By-Laws.

20. Lots No. 1, 63, and/or 64 may be used as part of the beach facilities located on the aforementioned outlot "C".

21. Except as otherwise provided herein, these covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the lots has been recorded, agreeing to change said covenants in whole or in part provided, however, no such amendment or change shall be binding upon Keating International Corporation, without its written consent.

22. Front, rear and sideyard setbacks for all lots in Keatington Shores shall conform to the requirements of the R-3 districts of the Orion Township Zoning Ordinance, except in the following respects:

   (a) The front setback for Lots No. 1 through 64 may be reduced to 25 feet.

   (b) Lot No. 1 rear setback may be reduced to 23 feet.

   (c) Lots No. 2, 3, 4, 5, 6; east sideyard may be reduced to 5 feet.

   (d) Lot No. 7; east sideyard may be reduced to 5 feet and rear sideyard reduced to 25 feet.

   (e) Lots No. 8-69; rear setbacks may be reduced to 20 feet.

   (f) Lots No. 10, 11, & 12; west sideyard may be reduced to 5 feet.

   (g) Lots No. 13; south sideyard may be reduced to 5 feet.

   (h) Lot No. 14; south sideyard may be reduced to 5 feet and rear setback may be reduced to 20 feet.

   (i) Lot No. 15; north sideyard may be reduced to 5 feet and rear setback may be reduced to 20 feet.

   (j) Lots No. 16, 17, 18; the north sideyard may be reduced to 5 feet.
Lynn Harrison

From: Joe Fleming <tojfleming@yahoo.com>
Sent: Friday, October 1, 2021 12:54 PM
To: Lynn Harrison
Subject: AB-2021-55 Tim Peterson

Lynn,

We would like to voice our opinion opposing the variance request from Mr. Peterson. Our neighborhood is designed to be an open space neighborhood. We have many mature trees, and as much "green space" as possible. We do not allow fences so that the area seems more open. This was one important factor we considered when purchasing our home.

Both setback variance requests (1 and 2), are too extreme. The request for the front yard setback reduces the setback by more then 25%, and the rear yard setback variance reduces the setback by 35%.

We also oppose the request in Variance #3. Having two garages, totaling 2,296 square feet is unreasonable. Our deed restrictions state that buildings need to keep "the harmony thereof with the surroundings and the effect of the building and other structure as planned on the outlook from adjacent or neighboring property". The deed restrictions also state that the building should be in "harmony of external design with existing structures".

This size of attached accessory buildings belong on a much larger lot then the one in this variance request. None of the buildings in our neighborhood have two separate garages/accessory buildings with a total of 5 bay openings from the front driveway. Having multiple large attached accessory buildings such as this will also invite a small business to occupy the building, causing even more problems in the future.

Mr. Peterson lived in this neighborhood prior to him purchasing this lot which is across the street from his current home. He was aware of the deed restrictions prior to purchasing this lot.

The three variance requests do not meet the requirements listed in Article XXX Administrative Procedures and Standards Section 30.07 C. Charter Township of Orion Zoning Ordinance 78 Page 30-51.

Joe Fleming
Michelle Fleming
2571 Browning Dr
Lake Orion MI 48360

Cell: (248) 505-7352
tojfleming@yahoo.com

This e-mail is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and is legally privileged. This information is confidential information, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering this electronic message to the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please notify us immediately by reply e-mail and destroy the original transmission and its attachments without reading them or saving them to disk or otherwise.
I am not able to attend the Oct. 11 public hearing. I am letting you know via this email that I am not in favor of granting any of the 3 variances from the Zoning Ordinance. Please confirm that you received this email. Thank you.

Robert Stewart
2650 Browning
To The Charter Township of Orion Board of Appeals,

Regarding AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to 1/2 acres

Mr. Petersen is asking for a variance of 1,146-sq. ft from the allowed 1,150 sq. ft. I believe this request is over and beyond what is needed in a neighborhood. Mr. Petersen is planning on using this “garage/attached accessory building as his personal storage unit. It is so big he needs 3 variances. Taking no consideration of what his storage unit would look from his neighbors backyards...3 small windows on a 40ft wall. There goes their natural sunlight, the natural setting of seeing your neighbor in their yard waving “hi” or talking...it will be a wall and I think a plant to look at, Mr. Petersen is only thinking of himself. I’m not sure how those neighbors property values will hold when they are looking into a wall and the only sun they will see is the setting sun.

R-2 zoning ordinances allows for a 3 stall garage and 3 vehicles owned and used by the occupants of the primary residence. It is my understanding that Mr. Petersen doesn’t plan on living at the above address. Plus, he plans on storing his six classic cars there. The additional 812 foot accessory building is for the renters vehicles. I believe that isn’t allowed in the ordinance.

The “garage/attached accessory” building has a “man cave” with a sliding wall that opens into the 2 door car “garage”. I don’t think you can have that listed as part of “living” space. Also, the plans have the 812 foot space listed as garage.

The storage unit/house is located 23 1/2 feet from the street. Again, this house doesn’t fit the integrity of the neighborhood. There are 2 slabs of cement for 1 car length to park on, no front porch,...a wall of garage doors and one entry door. There is a balcony on the second level,...it’s a fortress. We are a tight knit neighborhood and Mr. Petersen has decided that he needs all his toys right across the street from him and hasn’t taken into consideration of his neighbors what this will look like. There are 11 houses in the neighborhood with 3 car garages and the rest are 2 car garages. Which all sit back from the street the allotted length.

There are many different style of homes in the neighborhood but none with a storage facility on the street level then an elevator to the second level with a balcony looking down onto the street.

The Keatington bylaws have a provision for these odd lots to allow for the front and back variations, but this doesn’t fit that. Mr. Petersen is asking for his neighbors to give up the openness of our neighborhood, a natural view, and the flow so he can have all his toys housed in a storage facility right across the street.

Sincerely,

[Signature]

Deborah R Wylin
2398 Eaton Gate Rd
248.739.2673
RE: Vacant Parcel #09-20-256-012

To Dan Durham,

As a home owner for over 50 years I urge the Zoning Board of Appeals to reject the lot owners variance request. The lot sizes are approx. 1/4 acre. Since my home abuts this property, the requested variance would place a structure much closer than that protected by our zoning laws. This would destroy the areas intended zoning and could adversely effect the value of my property.

Sincerely,

John W. Sonia
2393 Eaton Gate Rd.
RE: AB-2021-55, Tim Peterson

To Dan Durham,

I am writing to express my opposition to the variance requested by Tim Peterson, vacant parcel, #09-20-256-012, East of 2585 Browning. My property is directly behind the vacant parcel in question. I believe that this structure will de-value my property and infringe on the zoning ordinance put in place by the board that I believe provides the opportunity for our residents to have the best of both worlds, the space of a rural area to grow but still have the close community of a subdivision.

Multiple boundary joining neighbors, share in my concern, that this would also negatively effect the views from our homes. The structure would likely take up the entire lot, leaving us to look at a garage wall from all angels that would come too close to our property lines. I also fear that this could set a precedence for others to build beyond the zoning barriers inadvertently altering the unique space that Keatington offers to future residents.

Sincerely,

Andrew Sonia
2393 Eaton Gate Rd.
October 7, 2021

Charter Township of Orion
2525 Joslyn Road
Lake Orion, MI 48360

Attn: Zoning Board of Appeals

RE: AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

The petitioner is seeking 3 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-2
1. A 9.73 front yard setback variance from the required 35 ft. to build a house 25.27 ft. from the front property line
2. A 12.85 ft. rear yard setback variance from the required 35 ft. to build a house 22.15 ft from the rear property line

Article XXVII, Section 27.02 (A) (8) Buildings, Structures and Uses, for lot size up to ½ acres
3. A 1,146- sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812-sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings

Dear Zoning Board of Appeals,

We reside at 2596 Browning Drive directly across from Vacant Parcel, #09-20-256-012. We recently received notice of the 3 variance requests as listed above from the petitioner, Tim Peterson. We are writing to express our opposition to the 3rd variance request regarding Article XXVII, Section 27.02 (A) (8) Buildings, Structures and Uses, for lot size up to ½ acres. Specifically, we are opposed to the 1,146 sq. feet variance request from the allowed 1,150 for building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings. We are asking the Township of Orion Zoning Board of Appeals to deny the variance request.

We are asking the Board to deny the 1,146 square feet of attached accessory and garage space variance request for the following reasons: substantially larger than the 1,150 of maximum floor space as allowed under the township ordinances and much too large for such a small lot (.4 acres), is an unusual request for the neighborhood, violates township ordinances including the R-2 garage design limit of not more than three (3) vehicles, the intended usage does not conform to township ordinances and definitions, is not in keeping with the harmony and character of our neighborhood, the need is self-created by the property owner and not unique to the characteristics of the property, and does not comply with single private residential home storage space needs as the intent is to provide storage for two homes, both the owner and the occupant. Approval of this variance would adversely affect nearby properties and bring an undesirable change to the character of the neighborhood. The combined space of these two garages can accommodate parking for 5+ vehicles. Many residents of this neighborhood object to this proposal. We will be submitting an opposition petition signed by many of the neighbors. Several others are sending letters and/or will attend the public hearing scheduled on October 11, 2021 to voice their objections.
1. **Violates Ordinances:**

   Article VI of the Orion Township Single Family Residential: R-1, R-2 & R-3 Accessory Land Use Ordinance states that “A garage designed and used for the storage of not more than three (3) vehicles owned and used by the occupants of the primary residence”

   **Article XXVII, Section 27.02 (A) (9) Buildings, Structures and Uses (a) (iii) and (iv)**

   **Article II Construction of Language & Definitions**

   **Garage, Private:** An accessory building designed or used for the storage of not more than three (3) motor vehicles owned and used by the occupants of the building to which it is accessory.

   **Garage, Storage:** Any premises except those herein defined as private garage, used exclusively for the storage of self-propelled vehicles where such vehicles are not repaired.

   The proposed home violates the above ordinances and definitions as the has the space to park well over 3 vehicles, has two garage structures and intends to use them in ways that violate the ordinances. The 1,484 square feet of space for the East attached garage alone can park more than 3 vehicles as it has a depth of 37'-1". The accessory building on the West side of the home has an additional 812 sq. feet which can store at least 2 probably 3 more vehicles. Hence two large garages with one to be use by the tenants and one for the owner’s usage. He has stated that the West garage, the accessory storage, is for tenant parking not indoor storage as defined in the referenced articles above. The East Garage is to park his own vehicles, trailers, collectible cars, tractor, kayaks, etc. On the architectural drawing both structures are labelled as garages, both have driveways leading to them with direct access from the street, the elevator can only be accessed by walking through one of the garages. The intended purpose of these structures is to use them both as private garages, one for the owner and one for the occupant.

   We also feel that to achieve <75% of maximum area of attached accessory building to meet zoning requirements, he simply slapped up a wall on the back of the East Side garage and labelled the area behind it a “man cave”. This area is nothing more than accessory storage space, a tool storage area, and should not have been included as living space in the square footage calculation. It is additional garage storage. It can only be accessed by an exterior rear door or by going through the garage, or walking through a bathroom. It is not part of the continuous living space of the building. It has a sliding door that opens directly to the garage and effectively is part of the garage. No home in this neighborhood has “living space” like that. We have dining rooms, living rooms, and kitchens on our first level. When the 400 sq. feet of the “man cave” is included in the calculation, the ratio would be 76.4% and exceed the 75% of the principal structure as required under the ordinance.

2. **Harmony & Character of the Neighborhood:** We believe a home with 3 garage doors facing the street and 2,296 sq. ft. of garage and accessory storage space is excessive and not in keeping with the harmony and character of the neighborhood. There are 168 homes in the immediate 3 subdivisions of these, only 11, or 6.5%, have 3 vehicle garages with no more than 2 garage doors. The rest of the homes, or 93.5%, are 2 vehicle garages with 1 to 2 garage doors. Within Sub #7, where Lot #9 is located, there are 52 homes and 5, or 9.6%, with 3 vehicle garages and 1 to 2 garage doors, not 3 (see attachment). There are 10 foot commercial garage doors on a least two of the garages, this is not in keeping with our neighborhood character. Furthermore, there is not one home in this subdivision that has 2,296 sq feet or 64% of garage and storage space on the first level and only 1,226 square feet or 36% of living space. In fact, the reverse of this would be the standard.
3. **Self-created:** The 2,296 sq. ft. requested for the attached garage and the attached accessory space is more than double the square footage of any garage and accessory space within this neighborhood and double the 1,150 allowed under the township ordinances. We believe that the need for such a variance is self-created and is not unique to the property itself. The intent by the petitioner is to use this house to store everything that he owns and that of his tenant under one roof. This is a single residential home and should be treated as such. It should have storage and parking commensurate with a single residential home. The total maximum square footage of 1,150 as allowed by the township for both the attached garage and the attached accessory building is more than adequate to meet the needs of one house. It is a choice to own 6 cars, boats, jet skis, kayaks, tractors, trailers, etc. and the problem is not created by or unique to this property. In fact, most of us in this lake community own boats and trailers and kayaks and jet skis, etc. In this neighborhood, we store our recreational vehicles on our property in accordance with the Keatington Homeowners Association bylaws and/or the Lake Orion Township Ordinances, within our 2-3 car garages, or in our basements. Everything else is stored in off-site storage. The homeowner was aware of these rules when he bought property within this subdivision. We all have the same problem and he is asking for property rights above and beyond what is enjoyed by others in neighborhood with similar lot sizes. Limiting the home to 1,150 square feet of garage and storage space would not cause the owner undue hardship and would only limit him to the same property rights possessed by others in this community.

We have lived next door to the petitioner for over 20 years. They have been wonderful neighbors and we are sorry to have to be in this position. We are not opposed to a single private residential dwelling being built on this lot but it should be in keeping with the character and harmony of structure within our neighborhood and be limited to the same property rights as possessed by others in this neighborhood. It should be limited to the allowable 1,150-sq. ft. total maximum floor area and have not more than three (3) vehicles owned and used by the occupants of the primary residence as intended under township ordinances. Additionally, there are other feasible alternate storage solutions such as a basement that could be explored that would be in keeping with the character and harmony of the neighborhood. We feel this is a reasonable request and would still allow the property owner to build on and enjoy their property and not cause any undue hardship.

In summation, we feel that the variance request as proposed is way too big for such a small lot, violates township ordinances, would cause an undesirable change to the character of the neighborhood, will be a detriment to the nearby properties, would set a precedent for the neighborhood, could lead to other violations when storing vehicles and equipment by this and future owners of this property, is a self-created need and not unique to the property itself, and that feasible alternate solutions can be found. We ask that you deny this variance request.

Thank you for your time and consideration.

Sincerely,

Dawn & Dave Wallin
2596 Browning Drive
Lake Orion, MI 48360

Attachment
* Sub 2, 3 & 7 = 168 Homes
  11 have 3 vehicle garages or 6,590
* Sub 7 = 52 Homes
  5 have 3 vehicle garages or 9,690
2590 Browning Dr.
Lake Orion, MI 48360-1814
October 8, 2021

Ms. Lynn Harrison
Coordinator, Planning & Zoning Department
Charter Township of Orion
2525 Joslyn Road
Lake Orion, MI 48360

Re: AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

Dear Lynn:

The need for the requested variances above is a self-created need and not unique to the characteristics of the property. Therefore, I am requesting denial of variances Number 2 and Number 3 as requested in AB-2021-55 by Tim Petersen and listed on Notice of Public Hearing that I received from your office.

Article VI, Section 7.04, Zoned R-2

2. A 12.85-ft. rear yard setback variance from the required 35-ft. to build a house 22.15-ft. from the rear property line.

Tim is requesting a rear yard setback variance without knowing specifically where his four corners are on the property. If he would relocate the lot to a 10’ side yard setback on the east side of the lot, where it is the deepest, he would be able to build a home without need of a setback at all. Everyone likes natural areas, however, we have all had to remove trees to build our dream homes. The large tree near the southeast corner of the property could be saved and while removing some of the other trees.

Article XXVII, Section 27.02(A)(8) Buildings, Structures, and Uses, for lot size up to ½ acres

3. A 1,146-sq. ft. variance from the allowed 1,150 sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812-sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

Tim is requesting a variance to build a five car garage with a home above the garage that he plans to rent out. I own an 837 sq. ft. three car garage across from this property and I have been able to store three cars and a boat at one time, so the 1,150 sq. ft. allowed on less than half an acre is ample room to park cars. All of the property owners in Keatington have boats, cars, trailers, kayaks, canoes, and other “toys” associated with living on the lake, so storage of this type of “accessories” is not unique to Tim.
This is the last buildable lot in the Keatington Shores subdivision and there are homes with three car garages. Any garage larger than a three car garage would not only violate Article VI of Accessory Land Uses which states that a garage designed and used for the storage of NOT MORE THAN three (3) vehicles owned and used by the occupants of the primary residence. Tim plans to rent out this residence, so, by the Article, he could not park any of his vehicles in this garage.

Per the proposed drawings that were shared with me by Tim, the three car garage area on the east side of the property is 38’11” x 37’1” or 1,484 sq. ft., more than enough area to park three vehicles.

Tim refers to this home as “The Carriage House” but in reality it is a “Barndominium” and not in keeping with the harmony of external design with existing structures of our neighborhood as stated in Keatington Shores No. 7 deed restrictions. When the Keatington Homeowners’ Association Board was asked why they approved, they said they didn’t think they could stop someone from building a home and assumed the Zoning Board would perform that function for them.

If approved, not only would I face a five car garage across from my home, but all three garage doors are 10’ high doors, again, not in keeping with the harmony of the adjacent homes or the entire neighborhood.

Finally, with the intent of renting out this home while maintaining usage of the three car garage area and man cave for himself, I fear this violates the single private residential dwelling requirements in our deed restrictions.

This lot is not unique to Keatington Shores and the other similar lots have been able to build beautiful homes with attached two car garages.

I ask that you deny this request.

Sincerely,

Barbara A. Schalk

b_schalk@msn.com
2590 Browning Dr.
Lake Orion, MI 48360-1814
October 8, 2021

Ms. Lynn Harrison
Coordinator, Planning & Zoning Department
Charter Township of Orion
2525 Joslyn Road
Lake Orion, MI 48360

Re: AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

Dear Lynn:

Please find attached a petition (6 pages) signed by homeowners in Keatington Shores No. 7 and Keatington No. 3 Subdivisions requesting that the above variance request be denied but not limited to the following reasons:

- Violates Article VI of the Orion Township Single Family Residential: R-1, R-2 & R-3 Accessory Land Use Ordinance which states that “A garage designed and used for the storage of not more than three (3) vehicles owned and used by the occupants of the primary residence”.
- The 1,484 sq. ft. requested can park more than 3 cars; the 812 sq. ft. accessory building requested has an intended purpose of being used as a garage thereby creating two (2) garages.
- Is substantially larger than the 1,150 sq. ft. of total maximum floor area of all accessory buildings allowed under the township ordinance.
- Is not in keeping with the harmony of external design with existing structures of our neighborhood. (Paragraphs 5 and 16 highlighted in Agreement and Restrictions Keatington Shores as recorded in Liber 7575 Pages 872-882, copy attached.) The Architectural Committee never notified the adjacent neighbors prior to approval of the request.
- The need is a self-created need and not unique to the characteristics of the property.
- May violate the single private residential dwelling requirements.

Sincerely,

Barbara A. Schalk
248.391.1279
b_schalk@msn.com

CC: Keatington Homeowners’ Association Board
Petition to Oppose Variance Request AB-2021-55

AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

Article XXVII, Section 27.02 (A) (8) Buildings, Structures and Uses, for lot size up to ½ acres

3. A 1,146-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812 sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

We the undersigned are opposed to the above referenced variance request and ask the Charter Township of Orion Zoning Board of Appeals to DENY for the reasons stated below but not limited to:

- Violates Article VI of the Orion Township Single Family Residential: R-1, R-2 & R-3 Accessory Land Use Ordinance which states that “A garage designed and used for the storage of not more than three (3) vehicles owned and used by the occupants of the primary residence”.
- The 1,484 sq. ft. requested can park more than 3 cars; the 812 sq. ft. accessory building requested has an intended purpose of being used as a garage thereby creating two (2) garages.
- Is substantially larger than the 1,150 sq. ft. of total maximum floor area of all accessory buildings allowed under the township ordinance.
- Is not in keeping with the harmony of existing buildings with existing structures of our neighborhood.
- The need is a self-created need and not unique to the characteristics of the property.
- May violate the single private residential dwelling requirements.

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<tr>
<td>Barbara A. Schalk</td>
<td>58</td>
<td>2590 Browning Dr.</td>
<td>Barbara A. Schalk</td>
<td>248-391-1279</td>
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<td>Michael J. Black</td>
<td>59</td>
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<td>Timothy Angerer</td>
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<td>2578 Browning Dr.</td>
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<td>Robert Mahan</td>
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<td>Robert Mahan</td>
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<td>Matthew Kinoot</td>
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<td>Joe Fleming</td>
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<td>Paul Walker</td>
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<td>Paul Walker</td>
<td>248-653-7513</td>
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<td>Jane Zimmerman</td>
<td>67</td>
<td>2579 Browning Dr.</td>
<td>Jane Zimmerman</td>
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<td>James Weidman</td>
<td>445</td>
<td>2567 Browning Dr</td>
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<td>Deborah Wilson</td>
<td>213</td>
<td>2551 Browning Dr</td>
<td>Paul Wilson</td>
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<td>Ronald Nagy</td>
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<td>Richard Knott</td>
<td>344</td>
<td>2559 Browning Dr</td>
<td>Richard Knott</td>
<td>248-391-4326</td>
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Petition to Oppose Variance Request AB-2021-55

Petitioner: Tim Petersen, Vacant Parcel #09-20-256-012, East of 2585 Browning

Article XXVII, Section 27.02 (A) Buildings, Structures and Uses, for lot size up to 1/2 acres

3. A 1,146 sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812 sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

We the undersigned are opposed to the above referenced variance request and ask the Charter Township of Orion Zoning Board of Appeals to DENY for the reasons stated below but not limited to:

- Violates Article VI of the Orion Township Single Family Residential: R-1, R-2 & R-3 Accessory Land Use Ordinance which states that "A garage designed and used for the storage of not more than three (3) vehicles owned and used by the occupants of the primary residence".
- The 1,484 sq. ft. requested can park more than 3 cars; the 812 sq. ft. accessory building requested has an intended purpose of being used as a garage thereby creating two garages.
- Is substantially larger than the 1,150 sq. ft. of total maximum floor area of all accessory buildings allowed under the township ordinance.
- Is not in keeping with the harmony of external design with existing structures of our neighborhood.
- The need is a self-created need and not unique to the characteristics of the property.
- May violate the single private residential dwelling requirements.

Property Owner(s) Lot # Address Signature Phone Number Date

Steven Proctor 190 2401 Eaton Gate Rd (248) 874-9741 10/5/21

Whitney Talaga 2409 Eaton Gate Rd, Whitney Village (248) 499-9033 10-5-2021

Bryan Talaga 2409 Eaton Gate Rd, Whitney Village (269) 207-2455 10-5-2021

David Kesper 2406 Eaton Gate Rd, Whititown (248) 351-3852 10-5-2021

John A. Mann 3393 Eaton Gate Rd (248) 391-2699 10-5-2021

Deborah P. Wyline 3393 Eaton Gate Rd (248) 739-2673 10-5-2021

Property Owner(s) Lot # Address Signature Phone Number Date
Petition to Oppose Variance Request AB-2021-55

AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2586 Browning

Article XXVII, Section 27.02 (A) (8) Buildings, Structures and Uses, for lot size up to ½ acres

3. A 1,146-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812 sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

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<td>Doug Smith</td>
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<td>2632 Browning Dr.</td>
<td>DD Smith</td>
<td>248-391-4677</td>
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<td>Valerie J. Daubenmeyer</td>
<td>50</td>
<td>2638 BROWNING DE</td>
<td>Valerie J. Daubenmeyer</td>
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<td>Kathleen Stavely</td>
<td>15</td>
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<td>46</td>
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<td>19</td>
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<td>Dawn Wallin</td>
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<td>Nancy Stewart</td>
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<td>2650 Browning</td>
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Petition to Oppose Variance Request AB-2021-55

AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning

Article XXVII, Section 27.02 (A) (B) Buildings, Structures and Uses, for lot size up to ½ acres

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<td>Terrie Ryba</td>
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<td>Theresa Ryba</td>
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<td>Marilyn Aletter</td>
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<td>James Nice</td>
<td>11</td>
<td>10-7-21</td>
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</table>
AGREEMENT AND RESTRICTIONS
KEATING SHORES

WHEREAS, the undersigned, Hilltop Company, as owner, has executed a plat for Keating Shore... ... a subdivision of Part of Section 20, T 4N, R10E, Orion Township, Oakland County, Michigan, which plat is recorded in Liber 167 of Plats, Pages 34, 35, 36 § 37 Oakland County Records; and

WHEREAS, it is the intent and purpose of said party to subject the said Subdivision to certain building and use restrictions, covenants, conditions, obligations, reservations, rights, powers and charges, as hereinafter set forth.

NOW, THEREFORE, for a valuable consideration and in consideration of the agreement of others and of the plan and purpose of said Subdivision and to the end that it may be restricted in its use so that it will develop into a residential community of the highest type, and in order to make said building restrictions, covenants, conditions, obligations, reservations, rights, powers and charges, binding and of full force and effect on all of the above described premises, and upon the present and future owners and occupants of the same, the undersigned hereby certifies, declares and agrees that all of the above described premises shall, if and when conveyed, be subject to and charged with all of the building and use restrictions, rights, powers, easements and charges, hereinafter set forth in this instrument and the record of this instrument in the office of the Register of Deeds for Oakland County, Michigan, shall be notice of said restrictions to all purchasers of said premises.

1. With the exception of Lot 64, all of the said lots shall be used only for private residence purposes and no structure shall be erected, altered, or permitted to remain on any residential lot other than one single private family dwelling with attached private garage for not less than two (2) cars. No detached garages shall be permitted. No dwelling shall exceed two stories except that a tri-level may be allowed in the discretion of the Architectural Control Committee.

2. Trailers, mobil homes, tents, shacks, barns, or any temporary building of any design whatsoever, are expressly prohibited within the Subdivision and temporary residence shall not be permitted in unfinished residential buildings. This shall not prevent the erection of a temporary storage building for materials and supplies to be used in the construction of a dwelling which shall be removed from the premises on completion of the building. Boats shall be stored with proper and adequate coverings in the rear of residences except as may be otherwise permitted by the Architectural Control Committee.

3. No lot shall be reduced in size by any method whatsoever. Lots may be enlarged by consolidation with one or more adjoining lots under one ownership. In the event one or more lots are developed as a unit, all restrictions herein contained shall apply as to a single lot. In any event, no dwelling shall be erected, altered, placed or permitted to remain on any site smaller than one lot as shown on the recorded plat.

4. No residence shall be erected or constructed on any lot which has
a living floor space exclusive of garage and porches of less than the following:

(a) 1 - Story Ranch 1,300 sq. st.

(b) 2 - Story 800 sq. ft. on first floor (provided the total square footage shall be not less than 1,500 sq. ft.)

(c) 1 1/2 Story 1,000 sq. ft. on first floor (provided the total square footage shall not be less than 1,400 sq. ft.)

(d) Tri-Level Not less than 1,200 sq. ft. exclusive of basement and lower level

5. No residence shall be erected, placed, or altered, on any lot until the construction plans and specifications, and a plan showing the location of the structure, have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location.

Subject to the provisions hereinafter set forth, the Architectural Control Committee shall consist of one (1) or more persons appointed by the owner and proprietors of said Subdivision, its successors and assigns, and the said owner and proprietor shall have the right to assign this power of appointment in such form as it desires, to any person or corporation which it may by an instrument in writing designate.

6. No trees which exceed six (6) inches in diameter shall be removed or cut without permission from the Architectural Control Committee, nor shall surface soil be dug or removed from any lot for purposes other than building and landscaping on said lot without the prior consent of the Architectural Control Committee.

7. No buildings may be moved onto any lot or lots in this Subdivision.

8. The erection of any new building, or repair of any building damaged by fire or otherwise, shall be completed as rapidly as possible and should the owner leave such building in an incomplete condition: for a period of more than six (6) months, then the Architectural Control Committee, or its authorized representative, is authorized and empowered either to tear down and clear from the premises the uncompleted portion of such structure, or to complete the same at its discretion, and in either event, the expense incurred shall be charged against the owner's interest therein and shall be a lien upon said lands and premises.

9. No outbuildings of any nature whatsoever shall be permitted, said provision being intended to exclude tool and equipment sheds, buildings appurtenant to swimming pools, and any structure or structures other than the main residence building itself.

10. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers
properly concealed from public view. Outdoor burning of trash shall be restricted to the rear twenty (20) feet of any lot.

11. Swimming pools shall not be constructed without submission of plans therefor showing dimensions, locations on lot, etc., to the Architectural Control Committee for approval. Plans shall include proposed safety fencing. The said Committee in passing on such plans shall be governed by the same principles as set forth in Paragraph 16 herein.

12. (a) No trailers or commercial vehicles, other than those present for business, may be parked in the Subdivision.

(b) No laundry shall be hung for drying in such a way as to be readily visible from the street on which lots front.

(c) All mail boxes shall be of uniform size, color and name design, and shall be located uniformly with reference to the dwellings.

13. The raising, keeping, or maintaining of livestock, poultry, and the like, is strictly prohibited, except that dogs, cats, or pets of like character can be kept or maintained as such on the premises, when such keeping or maintaining does not constitute a neighborhood nuisance.

14. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent. With the approval of the Architectural Control Committee a builder or developer may install a sign not more than 200 square feet to advertise the property during the construction and sales period. Such signs as are allowed must be maintained in good condition at all times and must be removed on the termination of their use.

15. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

16. No building, fence, wall or other structure shall be commenced, erected or maintained on any lot nor shall any additions to or change or alteration therein be made, except interior alterations, until the plans and specifications showing the nature, kind, shape, height, materials, color scheme, location on lot and approximate cost of such structure and the grading plan on the lot, including grade elevations of buildings to be built upon shall have been submitted to and approved in writing by the Architectural Control Committee or its authorized agent, and a copy thereof as finally approved, lodged permanently with the Committee. The Committee shall have the right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable in its opinion for aesthetic or other reasons. In no passing upon such plans, specifications and grading plans, it shall have the right to take into consideration suitability of the proposed buildings or other structures to be built, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from adjacent or neighboring property.

It is understood that the purpose of this paragraph is to cause the Subdivision to develop into a beautiful, harmonious, private residence section.

17. HILLTOP COMPANY reserves the right to dredge, fill, and construct canals upon other land in "Kastington", and to perform such other work in connection with Voorheis Lake as it in its sole discretion shall determine. Any owner of a lot in this Subdivision does hereby waive his right to object to such work or to the extension of use of Voorheis Lake resulting therefrom.
18. The owner of every lot in Keatington Shores shall automatically become a member of Keatington Home Owner's Association, a Michigan Non-Profit Corporation, which membership confers the privilege of the use of the beach facilities on Outlot "C", Keatington Subdivision No. 2, as recorded in Liber 5325, Page 657, Oakland County Records; further said membership shall be subject to the imposition of such dues and such assessments as cost of maintenance and/or improvement of the said Outlot "C". Such dues and assessments shall be due and payable within thirty (30) days of billing and shall not exceed Forty and 00/100 ($40.00) Dollars per lot annually. In the event any member shall fail or refuse to pay such dues or assessments when due, the Register of Deeds for Oakland County against the lot of such delinquent member, showing the amount due and owing as a lien on such lot until fully paid. Upon payment, the said Association shall issue an appropriate discharge of such lien in a form eligible for recording.

19. The owner of every lot in Keatington Shores shall, as a member in good standing of Keating Home Owner's Association, be entitled to and subject to all of the rights, privileges and obligations of said Association, as provided in its Articles of Incorporation and By-Laws.

20. Lots No. 1, 63, and/or 64 may be used as part of the beach facilities located on the aforementioned outlot "C".

21. Except as otherwise provided herein, the covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the lots has been recorded, agreeing to change said covenants in whole or in part provided, however, no such amendment or change shall be binding upon Keating International Corporation, without its written consent.

22. Front, rear and sideyard setbacks for all lots in Keatington Shores shall conform to the requirements of the R-3 districts of the Orion Township Zoning Ordinance, except in the following respects:

(a) The front setback for Lots No. 1 through 64 may be reduced to 25 feet.

(b) Lot No. 1; rear setback may be reduced to 23 feet.

(c) Lots No. 2, 3, 4, 5, & 6; east sideyard may be reduced to 5 feet.

(d) Lot No. 7; east sideyard may be reduced to 5 feet and rear sideyard reduced to 25 feet.

(e) Lots No. 869; rear setbacks may be reduced to 20 feet.

(f) Lots No. 10, 11, & 12; west sideyard may be reduced to 5 feet.

(g) Lot No. 13; south sideyard may be reduced to 5 feet.

(h) Lot No. 14; south sideyard may be reduced to 5 feet and rear setback may be reduced to 20 feet.

(i) Lot No. 15; north sideyard may be reduced to 5 feet and rear setback may be reduced to 20 feet.

(j) Lots No. 16, 17, 18; the north sideyard may be reduced to 5 feet.
(k) Lot No. 20; the rear setback may be reduced to 25 feet.
(l) Lot No. 21; the west sideway may reduced to 5 feet.
(m) Lot No. 24; the east sideway may be reduced to 5 feet.
(n) Lots No. 27, 28, & 29; the rear yards may be reduced to 25 feet.
(o) Lots No. 21 & 32; the rear yards may be reduced to 20 feet.
(p) Lots No. 34, 51, 52, 53, 54, & 64; the rear yards may be reduced to 25 feet.

23. Enforcement shall be by proceedings in a civil action against any person or persons violating or attempting to violate any covenant either to restrain violations or to recover damages. Failure to enforce any of the covenants herein contained shall in no event be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto.

24. Invalidations of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Violation of any condition or restriction or breach of any covenant herein contained shall give the parties hereto in addition to all other remedies, the right to enter upon the land as to which such violations or breach exists, and summarily to abate and remove, at the expense of the owner thereof, any erection or other violation that may be or exist thereon contrary to the intent and provision hereof, and the parties hereto shall not thereby become liable in any manner for trespass, abatement or removal.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their hands this 6th day of June 1979.

In the Presence of:

Marilyn Davis

Patricia Beebe

HILLTOP COMPANY
A Michigan Corporation

Kevin J. Keating, President

Douglas P. Keating, Secretary

Joseph E. Zimmer

Susan E. Zimmer

F. Murray Rice

Dorothy Rice

CAPITOL SAVINGS AND LOAN

Robert E. Clark, President

Harry J. Chambers, Vice President
STATE OF MICHIGAN
) ss.
COUNTY OF OAKLAND

On this 6th day of June, 1979, before me the subscribed, a Notary Public in and for said County, appeared KEVIN J. KEATING and DOUGLAS P. KEATING, to me personally known, who being by me duly sworn did say they are the PRESIDENT AND SECRETARY of HILLTOP COMPANY, A Michigan Corporation, and that the seal affixed to said instrument was signed in behalf of said corporation, by authority of its Board of Directors., and KEVIN J. KEATING and DOUGLAS P. KEATING acknowledged said instrument to be the free act and deed of said corporation.

Marilyn J. Davis
Notary Public, County of Oakland
My Commission expires: 8-6-80
KEATING SHORES

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS

HILLTOP COMPANY, a Michigan corporation, whose address is 10 W. Long Lake Road, Bloomfield Hills, Michigan, 48013, being the owners of the following described lands, herewith form this Supplemental Declaration of Covenants and Restrictions this 6th day of June 1979, and they shall run with and bind the land hereinafter described and shall inure to the benefit of and be enforceable by the owner of any land subject thereto, their respective legal representatives, heirs, successors and assigns, and in accordance with the provision of Act No. 286, Public Acts of 1967 of the State of Michigan ("Subdivision Control Act of 1967").

A. Land Covered by this Supplemental Declaration of Covenants and Restrictions:

Lots 1 thru 64 Keatington Shores, a subdivision of part of Section 20, Town 4 North, Range 10 East, Orion Township, Oakland County, Michigan, according to the Plat thereof as recorded in Liber—_, Pages _____ and _____ of Plat, Oakland County Records;

B. Covenants and Restrictions:

1. No lower floor, including basements shall be constructed below the flood plain elevation of 986.2 USGS Datum as established by the Department of Natural Resources.

2. There shall be no filling or occupation of the flood plain area without the approval of the Department of Natural Resources.

3. The provisions of the flood plain area shall remain in effect in perpetuity and may not be amended.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their hands this 6th day of June 1979.

HILLTOP COMPANY
a Michigan Corporation

Kevin J. Keating, President

Douglas P. Keating, Secretary

Joseph E. Zimmer

Sue E. Zimmer

F. M. McCray, Vice

M. Dorothy Nice

CAPITOL SAVINGS AND LOAN

Robert E. Clark, President

Harry M. Chambers, Vice President
STATE OF MICHIGAN)  
COUNTY OF OAKLAND)  

On this 6th day of June, 1979, before me the subscribed, a Notary Public in and for said County, appeared KEVIN J. KEATING and DOUGLAS P. KEATING, to me personally known, who being by me duly sworn did say they are the PRESIDENT and SECRETARY of HILLTOP COMPANY, a Michigan Corporation, and that the seal affixed to said instrument was signed in behalf of said corporation, by authority of its Board Of Directors, and KEVIN J. KEATING and DOUGLAS P. KEATING acknowledged said instrument to be the free act and deed of said corporation.

Marilyn J. Davis  
Notary Public, County of Oakland  
My Commission expires: 8-6-80
STATE OF MICHIGAN) ss.
COUNTY OF OAKLAND)

On this 6th day of June in the year One Thousand Nine Hundred Seventy Nine before me, the subscriber, a Notary Public in and for said County, appeared F. MURRAY NICE and M. DOROTHY NICE, husband and wife to me known to be the person described in and who executed the foregoing instrument and respectively acknowledged the execution thereof to be THEIR free act and deed, and who have sworn that they are over 21 years of age.

Marilyn J. Davis
Notary Public, County of Oakland

My commission expires: 8-6-80
STATE OF MICHIGAN
COUNTY OF OAKLAND

On this 6th day of June, in the year One Thousand Nine Hundred Seventy Nine before me, the subscriber, a Notary Public in and for said County, appeared JOSEPH E. ZIMMER and SUSAN E. ZIMMER, husband and wife to me known to be the person described in and who executed the foregoing instrument and respectively acknowledged the execution thereof to be THEIR free act and deed, and who have sworn that they are over 21 years of age.

Marilyn J. Davis
Notary Public, County of Oakland

My Commission expires: 8-6-80
STATE OF MICHIGAN) ss.
COUNTY OF OAKLAND)

On this 6th day of June in the year One Thousand Nine Hundred
before me, the subscriber, a Notary Public in and for said
County, personally appeared ROBERT E. CLARK and HARRY W. CHAMBERS, to me
personally known, who being by me duly sworn did say that they are the
PRESIDENT and VICE PRESIDENT of the CAPITOL SAVINGS AND LOAN ASSOCIATION,
and that the seal affixed to said instrument is the corporate seal of said
corporation, and that said instrument was signed and sealed in behalf of said
corporation, by authority of its board of directors, and ROBERT E. CLARK and
HARRY W. CHAMBERS acknowledged said instrument to be the free act and deed
of said corporation.

MARILYN J. DAVIS
Notary Public, County of Oakland

My Commission expires: 8-6-80
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: September 30, 2021
SUBJECT: Staff Report for AB-2021-56, Steven Oja, Vacant Parcel #09-03-278-026, south of 576 Cushing Street

At the August 23, 2021 ZBA Meeting Case AB-2021-49 was heard. This case pertained to the subject parcel which received approval for variances in 2019. The 2021 request was to extend the expiration of those variances. The Board denied the request for the extension. Documentation from the 2019 case is attached.

The applicant, has since purchased the subject property and is seeking the advertised variances for a new home he wishes to build.

The lake side of the property is being declared as the front and road side as the rear.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 29, 2021

RE: AB-2021-56, Steven Oja, Vacant Parcel #09-03-278-026, South of 576 Cushing

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-2021-56, Steven Oja, Vacant Parcel #09-03-278-026, South of 576 Cushing I would move that the petitioner’s request for:

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

Article VI, Section 6.04, Zoned R-3

1. A 20-ft. rear yard setback variance from the required 35-ft. to build a house 15-ft. from the rear property line (road side).
2. A 2-ft. side yard setback variance from the required 9-ft. to build a house 7-ft. from the side property line (north).
3. A 1.2-ft. side yard setback variance from the required 9-ft. to build a house 7.8-ft. from the side property line (south).
4. A 13.72% lot coverage variance above the allowed 25% for a total lot coverage of 38.72%.

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-2021-56, Steven Oja, Vacant Parcel #09-03-278-026, South of 576 Cushing**, I would move that the petitioner’s request for:

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

Article VI, Section 6.04, Zoned R-3

1. A 20-ft. rear yard setback variance from the required 35-ft. to build a house 15-ft. from the rear property line (road side).
2. A 2-ft. side yard setback variance from the required 9-ft. to build a house 7-ft. from the side property line (north).
3. A 1.2-ft. side yard setback variance from the required 9-ft. to build a house 7.8-ft. from the side property line (south).
4. A 13.72% lot coverage variance above the allowed 25% for a total lot coverage of 38.72%.

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 $200.00 for a residential application.

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

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

APPLICANT
Name: STEVEN OJA
Address: 96934 BLUEGRASS CT City/State/Zip: SOUTH LYON, MI 48178
Phone: ___________________Cell: 313-318-0589 Fax: ___________________
Email: STEVE OJA @ COMCAST.NET

PROPERTY OWNER(S)
Name(s): STEVEN Y NICOLE OJA
Address: 96934 BLUEGRASS CT City/State/Zip: SOUTH LYON, MI 48178
Phone: ___________________Cell: 313-318-0589 Fax: ___________________
Email: STEVE OJA @ COMCAST.NET

CONTACT PERSON FOR THIS REQUEST
Name: ___________________Phone: ___________________Email: ___________________

SUBJECT PROPERTY
Address: V/L CUSHING ST CAKE ORION, MI Sidwell Number: 09-03-278-026
Total Acreage: ___________ Length of Ownership by Current Property Owner: ___ Years, ___ Months

Does the owner have control over any properties adjoining this site? [YES/NO] NO

Zoning Ordinance
Allowance/Requirement ___________________Deviation requested ___________________
1. Asking for a variance because of the narrow width of the lot, steep grades and losing area of the lot due to the waters edge. We are asking for the following:

**HOUSE:**
- A 3’ side variance on the north side (7’ from the property line to the house vs 10’ required)
- A 4’ side variance on the south side (6’ from property line to the house vs 10’ required)
- A 6’ variance on the front side (SE corner) (24’ from the house corner to the waters edge vs 30’ required)
- A 15’ variance on the rear side (NW corner) (20’ from the garage corner to the property vs 35’ required)
- A 1’ variance on the rear side (SW Corner) (34’ from the house to the property line vs 35’ required)

**DECK:**
- A 19’ variance on the SE corner of the deck (11’ from the deck SE corner to the waters edge vs 30’ required)
- A 6.5’ variance on the NE corner of the deck (23.5’ from the deck NE corner to the property line vs 30’ required)

2. The lot is approximately 66’ wide by 121’ feet deep which includes 4’ +/- past the waters edge. 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 that includes part of the lake, 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: ___________________________ Date: 9/9/21
(must be original ink signature)

Print Name: STEVEN OJA

Signature of Property Owner: ___________________________ Date: 9/9/21
(must be original ink signature)

Print Name: STEVEN OJA

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 01.05.87, 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>
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<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></td>
</tr>
<tr>
<td>Total Maximum Floor Area of 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 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.
AB-2021-56  09-03-278-026  R-3
.170 acres or 7,405.2 $  25% = 1,851.3 $

Relaxation on side yard setback is 9' (measured 66-68' at front yard setback)
The rear is the road side
The lake is the front

Front yard setback from prop line & lake is 30.5'  ok
Rear yard setback is 15'  Needs a 20' Variance A
Side yard setback (North) 7'  Needs a 2-ft Variance A
Side yard setback (South) 7.8'  Needs a 1.2-ft. Variance A
Total Footprint  2,867 $ = 38.72%  13.72% Variance A

Distance from water's edge to dock 26.22'  ok (Needs to be 25')
Distance from water's edge/prop. line to house (front) 30.5'  ok
(Needs to be 30')

Garage total square footage  will not exceed  (maximum allowed 1,150 $)
The 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: Courtney Keisman <ckeisman@oriontownship.org>
Sent: Thursday, September 23, 2021 9:16 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: Residential ZBA Documents for the October 11, 2021 ZBA Meeting

Mr. Williams,

Hello Jeff. Attached is 2 ZBA residential cases that need to be reviewed by you for the October 11, 2021 ZBA Meeting.

Thank you,

Courtney Keisman
Clerk
Planning & Zoning
2525 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5003  F: 248.391.1454
W: www.oriontownship.org
Mr. Williams,

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help the applicant by blocking the light and the sight lines of the people walking through the area; the granting of this variance would not impair any light or air; it would not unnecessarily increase congestion; no fire danger, no danger to the public safety; it would not unreasonably diminish or impair established property values; or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township: this gentleman is asking for what is a minimal request to have fairly significant impact on his quality of life.

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

**AB-2019-23, Mike Riddle, unaddressed lot on Cushing St., 09-03-278-026**

Chairman Yaros read the petitioner's request as follows:

He is requesting seven variances from Zoning Ordinance 78, Article VI, Section 6.04 Zoned R-3:

1. A 15-ft. rear yard setback variance from the required 35-ft. rear yard setback (west) to build a house 20-ft. from the lot line
2. A 15-ft. front yard setback variance from the required 30-ft. front yard setback to build a house 15-ft. from the lot line (east)
3. A 2-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 7-ft. from the lot line (north)
4. A 3-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 6-ft. from the lot line (south)
5. A 9-ft. setback variance from the required 20-ft. setback for structure to shoreline of a lake, to build a deck 11-ft. from the shoreline of a lake.
6. A 1-ft. setback variance from the required 25-ft. setback for structure to wetland, to build a house 24-ft. from the wetland (south)
7. A 19.24% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 44.24%

Mr. Matt Dunaskiss, 535 Cushing, stated he was there with his wife Diane, his son Justin and they just wanted to take a moment before Mike's presentation to thank them for their consideration and share a tad bit of background about the property and what got them today to request these variances. The homesite and several of them might have come out and visited, it is on Cushing Street, and Cushing is a very small street with just eight other homes on it, and they are blessed to have the surrounding area that has been in his family for over 70 years, he grew up on the property, hunted it etc. To sell any of the property was a difficult decision with his family, but somewhat spurred on by his son who wants to build an adjacent homesite there in the next two to three years. He shares that with them because his wife and him keeps his home there, Justin is going to build there, they are going to look at this home each and every day that they go by. They want to do the right thing and have the right characteristics, make sure that this home is going to conform with the rest of the homes on Cushing and make it an asset; but it is a difficult site and so they realize that so they spent a lot of time with his wife and him looking at different building plans and etc., but also they spent a lot of time looking for the right builder so they were happy to have Mike Riddle who is a custom home builder that has dealt with lake property in the past on difficult sites. They appreciate their consideration and they think that these variances are very reasonable and conform with the other homes in the area.
Mr. Mike Riddle, 910 S. Ortonville Rd., Ortonville, MI, the applicant presented.

Chairman Yaros asked how big of a home is this?

Mr. Riddle replied that the house, the first-floor plan is 1,890-sq. ft., the garage is 586-sq. ft., the second floor is approximately 792-sq. ft., which brings it just under 2,500-sq. ft. of total area including the garage.

Mr. Riddle stated that one of the things that they looked at on the site, they had to deal with the depth of the lot how the lake comes in and they loose some property based on the property line being in the water versus the water line, that they need to have their setback to. Trying to build a home that conforms with the other homes on the street, he pulled up all the homes on the street and the square footages of first floor, there is a home at 495 Cushing that is 2,700 sq.-ft.; there is one at 576 Cushing that is 1,566 sq.-ft. first floor, this doesn’t include garage; there is also one at 480 Cushing that is 1,646 sq.-ft. on the first floor; there is another one at 602 Cushing it is 2,023 sq.-ft. on the first floor. They tried to conform within what they believe that most of the homes adjacent to the property have, trying to build a home that will increase the value for everybody in the area. They are planning on taking the overhead lines, he has some pictures that he will identify of some pictures from the lake and from the road, trying to show what they believe are conforming with what represents a nice home for the neighborhood not over building, but building a nice home that has the features that people are looking for now, like a first floor master, nice deck, great view of the lake and considering their neighbors and trying to build a beautiful home. Some of the difficulties they are dealing with are the grades, how the road turns in there, there is not a lot of room once you put a detached or attached garage which they will see in the pictures that he has, it makes it very difficult to have a lot of room on what would be called the road-side. As they come down on this lot and go towards the lake-side trying to get what they consider not an overbuilt home on the property it brings them to the setbacks that they are asking for to allow them to have a nice home, deck and a yard still. He showed the pictures on his display. There was a blown-up picture of the lot, the adjacent four houses next door, and he took pictures of how far they are off the lot line and he felt they are right there with the neighboring homes. The other picture shows the homes on the other side, Fernhurst, the ones on the end of the road, and Cushing. They think what they are trying to do is really uniform to what is already done. They other pictures he took from the lake, across the bay looking at where the home would be. They felt it was very consistent with what was built there. The end of Cushing is already built and, in the past, there was variances granted, so they are trying to accommodate the lot and build something that will bring value to the community and to the lake, certainly make it look beautiful and trying to work with the constraints of the lots and obviously they are asking for variances.

Chairman Yaros said they are asking for a lot of variances.

Mr. Riddle replied he knows they are.

Chairman Yaros noted that his biggest problem is the lots to the north of them are larger lots. They are a lot longer and if that is the type of similar home they are trying to meet, when they talk about 44% lot coverage, he doesn’t think they have ever granted 44%, it is a lot of lot coverage.

Mr. Riddle added again he doesn’t know exactly but that is why he did his research on the aerials. He believes and has some information on one of the homes, but if they look (pointing to the display map) right here he would bet that it is quite a bit more than what they are asking for. This address right here which is fairly new had a number of variances and it was a tight lot and had difficulties with grades and the road also, and that address is 495 Cushing. He researched and went around and found a couple on Fernhurst that seemed to be very close. The neighbor right next door their house is fairly new also.
Chairman Yaros commented that they grant variances all the time, particularly when they look at lakefront lots, because they know that they are expensive and people want lakefront. They usually grant a 2-ft. side yard variance or maybe a 5-ft., they are not really asking for much of a side yard, he didn’t really have a problem with the side yard. His problem is the lot coverage, they are covering almost 50% of this lot with the house. They got this deck that is the full width across the back that’s part of the coverage and they are only going to be 11-ft. from the water, from the edge of that deck on the drawing, that is the lot.

Mr. Riddle said he agreed with him. What they are trying to do is invest in the community, into a home that he believes that will be a value for everybody. The concern is his neighboring lots have a lot more depth, that is one of their hardships is that they don’t the depth. When they take a home, which he has the floor plans which he believes everyone has, by the time they actually take the home and put an entry, kitchen, laundry room and all the things you would expect in a new home, you end up with a home that has a depth of 58-ft. just for the first-floor plan. He doesn’t think that they have done anything overly extravagant here, other than they have a den, a grate room, an entry, master bedroom on the first floor, a laundry room and a kitchen. The sizes are all sizes that they don’t think that they have overdone anything. They have a master bedroom that is 16x16, dining room that is 10x14, grate room that is 18x20, a garage that is 24x24. He doesn’t think that for a house that they went overboard. They have talked about it, numerous times about what they thought that would work in the area that they could build and invest and obviously be able to sell. They don’t think that they went overboard, they do realize that with the depth of the lot, how that cove comes in there, they lose some of the property as far as property line goes. They tried to conform the best that they can, which they know they are asking for variances and he would hope that they would be able to look at them and certainly hope they would be able to grant them, but would be happy to try to work with the community the best they can. He works with lots of lake communities, they have built many homes on many lakes and dealt with variances and tight lots and constructions and they are always good with their neighbors and they certainly want to be good with the community.

Trustee Flood stated that when he was out there, they have four lots for sale. This parcel number they are talking tonight, is that lot number one?

Mr. Riddle replied correct.

Trustee Flood said he wanted to make sure because they were all different sizes on those.

Mr. Riddle said yes there are, it is lot number one.

Trustee Flood noted that he drove his truck down there, with 4-wheel drive and when he made the turn-around down there he had to make sure that he was not to close to the lake. It was about a 30-ft. drop down there?

Mr. Riddle replied that it is about 20-ft. on lot one. When they come off the road it is going to have a little tapper down and then they are going to have to build a taller basement and then go down towards the lake.

Trustee Flood asked have the walkout on the lakeside?

Mr. Riddle answered correct.

Vice Chairman Durham stated four lots side by side, are they building a house for someone that has purchased lot #1?
Mr. Riddle said now what they have on lot one right now, they do have a couple of interested people but right now it is actually himself Rising Construction working with the owner trying to build a home that their plan is spec the home and or sell it ahead of time, but right now it is Rising Construction building a home.

Vice Chairman Durham questioned if they had a choice of all the lots, if so, would one have been bigger?

Mr. Riddle answered that yes, they could build on any of the other lots, they are available at this point, but this is the largest of the lots.

Vice Chairman Durham asked if the lot perks?

Mr. Riddle responded that it has sewer, all of them do.

Trustee Flood said they would be on a well though?

Mr. Riddle said well and sewer, correct.

Mr. Riddle added that one other thing from lot one down through lot four, he really right now only is involved with lot one, he would love to do all four but really talking about lot one. One of the things the owner has looked into with his help is taking the power lines and putting them underground which he thinks will be an added value just in the look of going down the road. They are trying to do everything to make it a nice home in the community and look similar to the pictures that he is presenting.

Board Member Walker stated that one of his issues he has, he was there earlier tonight when he made a lady tear down her fence, because it was right up to the shoreline of the lake. They are asking for a variance from that shoreline for 1-ft. for the house but either 9-ft. or 11-ft. for the deck. He doesn't know how he feels about granting him that variance after telling her she had to tear her fence down.

Mr. Riddle replied that the only way he can try to answer that, it is because of the back and the height of the house and the first floor being almost 14-ft. in the air, he thinks that a deck is something that they have to have as far as their point of view. When you add that on the deck that they are asking for is 13-ft. deep it is not in his opinion an overpowering deck, unfortunately, with 13-ft. it brings them closer to the lake. That is why he got the aerials trying to see around the lake what other people have done in those situations, and it appears that other people have been able to work with them just like he wants to and achieve a nice home and be closer to the lake than what is probably allowed.

Trustee Flood said he understands that the house is 1-ft. that they are asking for a variance, on the deck now it is going to be a 1st floor deck?

Mr. Riddle replied correct.

Trustee Flood asked so the walk-out deck is not going to be on the ground, it will be on a second floor?

Mr. Riddle answered correct it is going to come off of the main floor but that main floor is taller than the ceiling.

Trustee Flood noted that they will have the stairwell coming down off of that deck, is that correct?

Mr. Riddle replied correct there is a stairway shown on the drawing.

Trustee Flood asked that 11-ft. is actually going to be suspended up in the air?
Mr. Riddle answered correct.

Trustee Flood stated except for the stairwell, actually the stairwell is going to be what is closest to the lake shoreline.

Mr. Riddle showed the plan it is going to be basically like the houses next door. They have basements and then they have decks coming off of the main floor.

Secretary Koscielnyński asked what is the Practical Difficulty.

Mr. Riddle answered that the difficulty for them is the depth of the lot and the grade of the lot. The deck runs across from the first floor over to the grate room, is what they are proposing.

Chairman Yaros questioned can you build a house on this lot without variances?

Mr. Riddle replied it would be very small. The lot actually is .161 acres which is roughly the 7,000 sq.-ft. is the lot, so if you take 25% of it and you add a garage the first floor would probably be 1,000 sq.-ft. and a garage might be, he didn’t even know if they could get 20x20 on a garage.

Chairman Yaros asked square foot wise, how big is the deck?

Mr. Riddle responded the deck is 688 sq.-ft. and it is approximately 13x48.

Chairman Yaros said he appreciates that they put the deck on there because a lot of time they get people that come in there and they are looking for variances for a house and a year down the road, they need a deck. Well yea, they are on the lakeside.

Mr. Riddle replied that is exactly why the put it on there.

Chairman Yaros noted it is good to do that now rather than coming down a year later looking for a deck. The only question is do they need the full width of the deck, because the farther north that they end the deck the farther they are away from the lake. If they had 35x13 ft. deck, he didn’t know if that would be a big deal, they wouldn’t need such a variance. The reason he is saying this is whatever variances they get on this they are going to see on 2, 3 & 4. They have to be vigilant in what they do and they need to have reasons why they do it.

Mr. Riddle stated that what they presented is what they feel, would be what they would like. Certainly, on the deck they think that is an area where they could hopefully work together. In the home, like he was saying before, when they look at the floor plan, they just end up with a home that is 58-ft. it is not that long of a home.

Trustee Flood noted that deck takes up a lot of the square footage percentage on the lot. It is hanging in the air it is not actually on the ground. The only thing that is going to encroach is the stairwell and the stairwell is not going to be 11-ft. wide. How wide are their stairs?

Mr. Riddle stated that the stairs are 3-ft. wide.

Trustee Flood noted that shrinks it down to about 8-ft. there.

Mr. Riddle said that to the north is the master bedroom of the home, to the south is the living room. It is closer to the south to the lake than it is to the north.
Chairman Yaros said his point was the farther north you go the land extends farther out so the variance is less.

Secretary Koscierzynski stated she did agree the deck is on the second story. It is not unusual for that area to have decks on that level.

Vice Chairman Durham said his feeling is while their business isn’t to make anybody money up there, if they are not going to deem those lots unbuildable they have to be able to bring houses in that will attract a buyer to make their money back and enough to make them happy and increase the value of the neighborhood. He doesn’t think that there are going to be many people running for 1,000 sq.-ft. house especially with the land cost. He doesn’t have an answer but it is something to think about.

Trustee Flood stated that he likes the idea of the developer putting the underground utility in. He thinks that is always a good thing if they could get the electric underground.

Chairman Yaros commented for a house to be 2,500 sq.-ft. but that includes a garage it doesn’t include the deck, that isn’t really out of sight in size of houses on Lake Orion.

Vice Chairman Durham noted that he personally does not have issue with the deck because it does not occupy ground. It is a variance under the ordinance language, but it is not going to present a problem for anybody.

Chairman Yaros noted that his biggest problem is the 44% coverage, it is just a massive coverage.

Trustee Flood added but it is such a short small lot too.

Secretary Koscierzynski noted that is their Practical Difficulty. This is personally living a block away from the lake, she really likes it when people want to spend money and make things look good and a brand-new house would be really nice because a lot of the house there are older, it is nice that they are willing to do that.

Mr. Jerry Richards, 535 Indianwood, said he is at the end of Cushing, they built their house there 1973. When he first became aware of this, he got the notice in the mail like anyone else would within the 300-ft. area, he took the time to go to the Township he looked at the plans and thought that it is a beautiful home. Then he was reading through all the variance’s and he has never seen so many variances requested to build a house. If this was an existing home and they were trying to expand it like many home on the lake get expanded then there is a different set of circumstances there but they are building a new house and it does have some design considerations, design challenges but 44% and he heard one of the members of the Board already acknowledge this, 44% is unbelievable that they would even consider even doing that. The home is over sized for the property, bottom line. The property is expensive but so what, the house is being overbuilt for the property, and that is not right. This suspended deck that is 11-ft. of the edge of the lake, to him it is not acceptable, there is supposed to be a 25-ft., just because it is suspended doesn’t mean that it is not in that same footprint of the lake. The reason that they have a setback is so they have a buffer area between the primary structure and the lake water and that is for natural filtration of the water run-off. If he has a deck up there and it is waterproof deck maybe because they know what happens when they are in lake living there is going to be another deck underneath that deck that is going to be built as part of the new home. It may not happen as part of this build but someone down the way is going to do that. Then they are going to want to waterproof that upper deck, and when they waterproof that upper deck then they have lost all of that run-off capability to protect the lake. They see it happening in a lot of different situations, where the encroachment on the lake is really wrecking their ability of their lake to remain healthy. He is a Charter Member of the Lake Association, they have been around since 1977, they were principle in putting together their special assessment district for the purposes of water management program to control the
weeds and they have a lot of challenges on their lake and this is certainly going to add to it, it might just be a little bit, but it is a big deal for the lake, because a little bit here a little bit there pretty soon you have a big problem. He would ask that the builder be challenged to come up with a smaller home that starts to fit within the confinement of the ordinances, otherwise, why do we even have ordinances why don't they just get rid of them and let people build whatever they want, because they are going to do it one way or the other it looks like. This will set a president for the remaining three lots, whatever you guys decide tonight it will be a rubber stamp for the next three lots, because you have it once they are going to do it over and over again. He just asked that the Board seriously consider that this is not the right fit for this particular project.

Mr. Riddle stated that as far as the water run-off goes, he will tell them that on a number of difficult lots on lakes and he just finished two very nice projects in Silvan Lake that the homes are 6-ft. apart, and one of the is 7,000-ft. and the other one is 4,000-ft. They will have proper drainage here, the gutters will be tied in, it will all be done correctly as far as, and he is sure the Building Department is going to make sure that he does it correctly, but the amount of water will not be any different than the amount of water in his opinion than the lot already has. They will route it through gutters and a drain system so they are not hurting or infringing on the lake.

Chairman Yaros stated that there is a reason they have a 25-ft., there is a reason they have a wetland.

Trustee Flood said that Mr. Richards is exactly right they have had all of these 100-yr. old cottages on that lake, everyone of them have come before the ZBA to get variances to build these bigger houses and they always want to get closer to the lake and it has been a problem ever since they wanted to put permanent homes on the lake.

Chairman Yaros noted that they see variances for side yards, they see variances off the back and the front, but they don't normally see all seven of them at one time. The one he really has a problem with is the coverage, because he really doesn't have a problem with the side yard, and the lakefront is a little problem because 11-ft. even though it is an upper deck that is close.

Mr. Riddle added that when he went around and looked at homes on the same street, their homes are closer than what they are asking for on the deck. It doesn't mean right or wrong or indifferent but again trying to conform with what they have, that is why they took pictures of the homes on the lake and back yards that are right there. He is trying not to overbuild they actually have revised these plans three different times from 3,500 down to 2,500 at some point. There difficulty is if the home gets too small it is unsaleable, he knows that is not their problem but it is their problem in trying to help develop this lot and whatever goes on with the other lots.

Chairman Yaros questioned instead of having four lots, maybe it should have been three lots and then they could have had a bigger home. There are four lots, but they are asking for a lot of variances.

Mr. Riddle said that he would ask before they vote, obviously he would like exactly what they asked for but if he can't get it, he would appreciate to know what would be acceptable trying to move forward. If it is a little bit of tweaking the deck, he is here to try to make it happen.

Trustee Flood commented that he just did the math on the deck, it is like 9.4% of that total lot coverage is the deck. If they take the 9% of the 44% that is about 35% then right.

Vice Chairman Durham noted that it is lot coverage under the ordinance but it doesn't touch the lot. It is like if you sat on the roof, technically under the ordinance language it is lot coverage, but he looks at coverage as coverage, a shed a driveway a garage. It doesn't sound like there is much movement that they can do with the plans that they submitted?
Mr. Riddle responded that there is not a lot that he can do, but he is here to try to make it happen, but including the garage at 58-ft. and 48-ft. wide. If he had a foot in the width and a foot in the depth, it is something that will work, if it is 10-ft. it can’t work, not with this particular plan or what for him to personally invest into a home there. He thinks that a first-floor master is very important.

Vice Chairman Durham stated the suggestion that he always make in these cases is rather than play this on the fly would be better served to postpone and go back and chew over the drawings some more and represent and a later time?

Mr. Riddle replied he doesn’t know the answer because each one of them probably has a different feeling of what that could be and instead of him trying to guess, he is prepared to negotiate on part of it if they can if not, and he went back and looked at it, he doesn’t know if what he looks at will be what is acceptable the next time they are there.

Board Member Walker said that it would seem to him from what he feels and thinks and what he has heard that lot coverage is issue number one, that is the biggest issue. There was a discussion about not counting the deck, he doesn’t think that they can do that? They can’t not count the deck because it is not technically lot coverage, because it is technically lot coverage and then every other person in the Township could say, you guys said that wasn’t lot coverage, so I can build a deck as large as I want. That would be a slippery slop to be going down, so he didn’t like that idea. Lot coverage and proximity to the lake he would guess, if there was something more important here than those two, he doesn’t know what it would be.

Mr. Riddle commented trying to research of what is on the lake, right on the same street, just the ground floor of the home which typically doesn’t include the garage is 2,733 sq.-ft. of 495 Cushing and according to what he was able to pull up at Oakland County Assess, the lot is .28 as far as the square footage which is almost a 50% lot coverage. He is certainly willing to negotiate and he understands what he is asking for.

Chairman Yaros said that he has been on the Board for 25-yrs. he has never seen a 44% lot coverage that they have allowed. Maybe there is somewhere, somehow, a lot of these homes were rebuilt from their original, a lot of that stuff is original because they can build if they have the original foundation, they can only vote on what they have in front of them.

Mr. Riddle stated it was a home that was newly built.

Chairman Yaros replied that he would have to look at each one individually he had no idea. Right now, the sticky point it the lot coverage. The lots get smaller and people are going to want more coverage.

Diane Dunaskiss, said she doesn’t envy the decisions that they have to make, but the lot lines for Lake Orion were established how many years ago? When Lake Orion 40 miles from Detroit was considered a vacation spot, there were almost no year-round homes on the lake, the lots were designed for cottages. Times have changed it is a lake for homes and in today’s world, and she is not looking at cost, she knows they are not there to help them make money or is that what they are concerned about, but if a person wants to live on a lake and pay the property taxes that are associated with a lake and have a family and live in a home that is comparable to homes in 2019, you can’t build a 1,000-ft. home anymore. If they want to have homes on the lake that are comparable that bring up the value of not only these properties but the homes that are around the property and make a lovely home and a beautiful lake front and always still maintain the integrity, she understand the concerns that they have and she think that Mike is ready to address as much as he can, with regard to drainage and run-off etc. This is 2019 and we are dealing with land sizes that were established many years ago when homes were totally different. If they are going to provide homes for families in 2019, on lots that were designed 100 or 50 years ago they have to make some variances. She thinks they need to be realistic with what
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people are willing to purchase and live in if they are going to be on the lake or anywhere, she doesn’t know where they would build a 1,000-ft. home.

Chairman Yaros said that they have to follow the ordinances and if they need to change ordinances than that is something else. When they squeeze this much house into a very small lot that is a problem, that is what they are trying to deal with.

Board Member Walker stated that they review the Master Plan every five years, so is that something they should factor into the next Master Plan review, he doesn’t think that the Township has ignored what has happen in the Township in the last 30-yrs.

Trustee Flood said that someone had made a comment earlier about having 4 lots there they could combine them into three.

Chairman Yaros stated that if they want big homes on the lake that is what they do instead of putting a big home on a really tiny lot. These lots were designed for cottages they weren’t designed for 2,500 sq.-ft. homes they were designed for 650 sq.-ft. cottages where everyone enjoys the lake but no one can afford that now a days. No one wants 650 sq.-ft. cottages, it just doesn’t happen.

Mr. Riddle said that obviously for him it is the season is there, with what has been presented would it be if the lot coverage came down, and I know they probably can’t answer that this evening but if they were to squeeze a little bit out of the house and squeeze some off of the deck?

Chairman Yaros replied that it would be more palatable for him if the lot coverage was less, and he doesn’t know how much he can squeeze out of it. He doesn’t have a magic number, but he knows that 44% is pretty high.

Mr. Riddle said that he would prefer not to have to start from the beginning, so he is asking so that if there is something that they maybe willing to live with and he can live with and they can mutually work to achieve a goal, that is what he is trying to do.

Secretary Koscierzynski noted that if they postpone it then Dave Goodloe, the Building Official will be there and he might be able to give them more insight.

Trustee Flood noted that they don’t have to reposit or reapply.

Mr. Riddle asked so what does he need to do, resubmit basically the plan?

Chairman Yaros said they would come up with a date and yes you need to resubmit a plan it you want to change it.

Trustee Flood said to get back with the Planning and Zoning Director Tammy.

Secretary Koscierzynski said that he can postpone until June 24th or after that it would be July 8th.

Chairman Yaros asked how long would it take for him to go back and rethink this?

Mr. Riddle replied that he will work on it immediately because it is the building season. Not only on this project is he trying to be the builder on this lot but he is also the real estate broker for the four lots for the family, and the inquiries he get on the lots, one of the big things is, what are they going to put on here, so that is part of it too, what are they going to be able to do. Obviously, they are specifically talking about lot one, but they are trying to develop.
Chairman Yaros said the look of the home is great, they are just trying to squeeze a lot of them and he doesn’t know if they are going to get that.

Mr. Riddle said that the 24th would be fine.

Board Member Walker asked if he was the realtor on this also?

Mr. Riddle replied yes.

Board Member Walker questioned if his sign was on the corner of Indianwood?

Mr. Riddle answered yes.

Board Member Walker stated that it is in the way. They need to move that because you have to look around that sign to turn right on Indianwood, and since they paved it, they go 65mph down Indianwood. He would move the sign off the road another foot or two.

Mr. Riddle responded that he will he thought he did it there. He will move it.

Trustee Flood asked if he was willing to postpone to June 24th?

Mr. Riddle replied correct.

Moved by Trustee Flood, seconded by Koscielorzynski, that in the matter of AB-2019-23, Mike Riddle, unaddressed lot on Cushing St. 09-03-278-026, per the petitioner’s request to postpone it until June 24, 2019.

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

**AB-2019-24, Claude Chapman, 3760 Walden Rd., 09-19-400-022**

Chairman Yaros read the petitioners requests as follows:

The petitioner is requesting two variances from Zoning Ordinance No. 78, Article XXVII, Section 27.02(A)(8) – Lot size over 2.5 acres

1. A 725 sq.-ft. variance above the allowed 1,400 sq.-ft. Maximum Floor Area of Detached Accessory Buildings to build a 2,000 sq. ft. pole barn, for a total Maximum Floor Area of Detached Accessory Buildings of 2,125 sq. ft.

2. A 225 sq. ft. variance above the allowed 1,900 sq. ft. for a Total Maximum Floor Area of all Accessory Buildings of 2,125 sq. ft.

Mrs. Rebecca Graham, 3780 Walden Rd., the applicant presented. She stated that Claude Chapman is her dad and she just wanted to fill them in. She owns the house that sits in front of 3780, her house is 3760. A couple of years ago her mom got sick and her husband and her moved back to take care of her and since then she has passed and her dad wanted them to stay so they actually been living with him. When her dad passes she is going to be taking over the house, well probably before he passes because it will be easier. Living back there, there is no place to put their stuff. Her husband inherited a lot of stuff, he has a backhoe, two trackaders and they also has a 5th wheel, that is the reason they need such a big pole barn is to keep their 5th wheel in this pole barn so it will stay nice for when she goes to retire, she will have it and it will be paid for.

Chairman Yaros said that there is a lot of pole barns in that area. He was sure if they were all 40x50 but they are at lease 40x30 or 40x40, even on the areal they will see pole barns stretched up and down.
too close. She made the mistake of going down Butler which is awful. Just to look and see of the houses that would be impacted by this and she didn’t think she would be happy with it.

Board Member Walker stated that following up on Vice Chairman Durham’s comments on section 5 of the application the question was describe how the alleged Practical Difficulty has not been self-created. The applicant answered no difficulty at all just makes more sense to improve it.

Vice Chairman Durham questioned if they were sure that the applicant was done speaking?

Chairman Yaros asked the applicant if he had anything further to say?

Mr. McCoy said that he is trying to increase the value of that neighborhood. He wants to keep everything updated and look nice and comfortable. Every time he looks at his neighbor’s property it is all covered with all woods never maintained, he is not complaining about it. He respects everybody in the neighborhood.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-26, Randy McCoy, 633 N. Long Lake, 09-01-176-049, the petitioner’s request for variances from Zoning Ordinance No: 78, Article XXVII, Section 27.03 (C)(3)(b)(ii) - Zoned R-3: 1) a 13-ft. variance from the required 20-ft. rear yard setback for a deck, to construct a deck to be 7-ft. from the rear property line; Article VI, Section 6.04 Zoned R-3: 2) an 11.51% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 36.51%, be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case in which they set forth facts which show that in this case: the petitioner does not show Practical Difficulty: his lot does have some varying grand and things to that nature but he has overcome an amazing amount with what he has put on there now; in the application itself the petitioner in his or her own hands stated that there was no difficulty and Practical Difficulty is one of the prime hooks that they have to hang their hats on for approval; the following are not exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally apply to other properties in the same district: the property is cramped as are all the properties around it, the property is lower than the front then it is at the back, which the properties along that road all are, he did not see any unique values to this property; 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: they have letters in the record that speaks to loud music, he is discounting the loud music for obvious reasons but they are cramped they do make some valid points about the fact that the lot lines would be impinged upon; granting of the variance or modification will be materially detrimental to public welfare and of concern to the property owners in the area, improvements in such zone or district in which the property is located based on the following findings: the neighbors are concerned he see that some of the reasons as valid others not so much but they don’t have any Practical Difficulty to work with here.

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

B. AB-2019-23, Mike Riddle, unaddressed lot on Cushing St., 09-03-278-026
Chairman Yaros explained that the following case was postponed from the June 10, 2019 ZBA Meeting. He is requesting seven variances from Zoning Ordinance 78:

Article VI, Section 6.04 Zone R-3:
1. A 15-ft. rear yard setback variance from the required 35-ft. rear yard setback (west) to build a house 20-ft. from the lot line.
2. A 15-ft. front yard setback from the required 30-ft. front yard setback to build a house 15-ft. from the lot line (east).

Article XXVII, Section 27.01 (C)(1)(b) Lot Width 66 to 69 feet
3. A 2-ft. side yard setback variance from the required 9-ft. side yard setback to build a
   house 7-ft. from the lot line (north).
4. A 3-ft. side yard setback variance from the required 9-ft. side yard setback to build a
   house 6-ft. from the lot line (south).

Article XXVII, Section 27.03 (C)(3)(b)(iii)
5. A 9-ft. setback variance from the required 20-ft. setback for structure to shoreline of a
   lake, to build a deck 11-ft. from the shoreline of a lake.

Article XXVII, Section 27.17(B)
6. A 1-ft. setback variance from the required 25-ft. setback for structure to wetland, to
   build a house 24-ft. from the wetland (south).

Article VI, Section 6.04 Zoned R-3:
7. A 19.24% lot coverage variance above the allowed 25% lot coverage for a total lot
   coverage of 44.24%

Mr. Mike Riddle, the applicant, presented.

Mr. Riddle stated that he is back in front of them this evening, they were there a couple of weeks ago
and at the time they had asked for a number of variances, since that time they have gone back and
tried to relook at their plans, their site everything they could and come up with what they hope is a fair
compromise for everybody. There difficulties are that they are finding are their site, the width, the
depth, the topography and trying to build a home that down the road they will be able to market with
todays standards. They have tried to, and he believes they have met and kept uniformity on their street
and for the project. Prior to this meeting it seemed like the lot coverage was one of the main sticking
points and they were just over 44% and now the are at 37%. When they reduced their basement
foundation their deck and they think from the new site plan and the architectural plans they can see
what they have pulled away trying to still keep and create a very nice product for their self for the
community and reduce the amount of site coverage. Their variances on the sides all changed also and
were reduced because they reduced the foundation approximately 1-ft. on each side and 2-ft. in the
rear, so that also changed their setback and also changed the setback from the lake which was
approximately 11-ft. and now out to almost 17-ft. They have gone back and tried to produce a home
that will be consistent in what they have. He is going to have Michael go through a few slides to put in
perspective what they are trying to achieve, and it might give a better visual through the slides.

Mr. Riddle stated that what they did was took a drone went over the site and were able to put the home
in on the slide. It looks very consistent to the neighbors, you will see another slide where the roofs and
everything lines up, they look very consistent and it gives them a very good visual of how that site will
look down the road. He showed them an aerial and they put the house in there so they could see what
it looks like compared to the adjacent homes. They feel it is very consistent to what is already been
approved and what is built, and they think it will be a benefit and a compromise and being very
consistent with the subdivision. They then showed a slide with the neighbor’s lot and their lot and
shows that they are consistent with the setbacks. The next slide they showed them the see
size of the homes and the roofs are consistent. One of the things that came up when he was talking to
the neighbor apparently there is parking issues, so they did expand it and they did show that they could
actually get three cars in the front of the home, most driveways are not able to do that, so they wanted
to show them that. The next slide gave them an idea of the type of home that would go there and again
it is consistent with the neighborhood for a walk-out nice materials, nice home. Trying to go through
and compromise and see what else has been built, he found a couple homes, one of them on Fernhurst
and he knows what is in the past, is the past but this one at 1690 Fernhurst, and he went to the lot
coverage and have been back and forth for two weeks upstairs trying to come up with the Building
Department with the Assessing Department trying to figure out what would be their best approach and
that one has 42% lot coverage, so that had come up before that they may have been asking for more
than anybody had asked for and he was just trying to point it out that there has been some homes that
were able to meet or exceed that. There was one other thing that came up, when he turned the site
plan in, the original site plan and they did their setbacks they did it based on what the criteria was that he still believe is the criteria and a deck could be different than the house when they did the setback, so he didn’t know if they had it or not but the red calculations there are if they only went to the property line where when they read the ordinance at some points they go to the waters edge and others they go to the property line, so just to be clear because they had conversation this afternoon he had everything put on the drawing so, hopefully, that helps if there are any questions on setbacks and measurements.

Chairman Yaros stated that he reviewed their new proposal and he is looking at before, 1) is the same 15-ft. rear yard setback variance required 35-ft. rear yard setback; 2) was a 15-ft. rear yard setback variance from the required 30-ft. now it is 3.89-ft. front yard setback variance from the required 30-ft.; 3) is a 2-ft. side yard setback variance is still the same on the north side; 4) a 3-ft. side yard setback on the south side now at .17-ft. side yard setback variance from the required 9-ft.; 5) is from a 9-ft. setback variance from the required 20-ft. for the deck they now are requesting a 3.23-ft. setback variance from the required 20-ft. setback so the deck is 16.77-ft. from the shoreline which showed on the drawing; 6) they are withdrawing the request they no longer need it; 7) a 19.24% lot coverage variance is now a 12% lot coverage for a total of 37%.

Chairman Yaros added that they asked for the time to reduce it and he thinks that they took a lot of what they said and acted on it. They were talking about the corner of the deck being a little close to the lake, so they pushed that over to the north so personally he is one vote, but he has does not problem with what they are proposing.

Board Member Walker stated that he thinks that they have done a lot of good stuff, he still has somewhat of an issue with the lot coverage percentage. He is not saying he is going to vote against them because of that. Is there anything else can they chip away at that anymore?

Mr. Riddle replied probably not anything that would really give them percentage changes. He can’t really reduce the deck anymore than they have. In order to get the type of home that they would like to get and they think that is what people would like, the first floor master, he thinks that they have reduced everything down to sizes that are equivalent to all of the neighbors and not just the neighbors but the area. In total their first floor is roughly 1,800-sq. ft. and when he had pulled it out before and he can do it again, their neighboring houses were 2,400-sq. ft. on the first floor, down to 750-sq. ft. but the average was right around 1,650-1,900-sq. ft. so that is what he needs to get the first floor. He unfortunately does not know where else he can go unless he starts back at scratch. They have really tried to squeeze, and compromise meet the requirements. He thinks they have shown through some of the other homes on the lake that they have created something consistent with their neighbors and something that they feel will enhance the neighbors and the community.

Board Member Walker asked if he moved his sign?

Mr. Riddle replied that he moved the sign and he weed wacked.

Mr. Jerry Richards 535 Indianwood, he is within the 300-ft. distance for notification of this. First thing he wanted to mention was he looks at the agenda and all the variances that are on the agenda for tonight are the same variances that were presented on the 10th, do they not update the agendas to reflect the new variances?

Chairman Yaros replied no it is a postponement; you have not seen the new one?

Mr. Richards stated that he found out that the new one had been submitted.

Chairman Yaros said that he has seen now.
Mr. Richards noted that he had seen it and in fact he had a conversation with Mike Riddle today in the Zoning office and that is where they shared the thoughts about the parking.

Chairman Yaros asked what he thought about the new proposal?

Mr. Richards responded first he wanted to commend this Board for the work that they have put into this. He had never participated in a ZBA before the 10th. He was duly impressed that each one of them had visited each of the properties that were in question and they had really great questions and expressed great concern, but more than that they have really expressed a lot of sympathy towards the people, they were very polite and very professional and having not been apart of that before they really impressed him. He was also was impressed with Mike’s presentation tonight he did a great job on it. He still has an issue his issue is with the setback from the lake. They need to protect their shorelines and he doesn’t believe that they should use other homes that got variances for a reason to establish a precedence for this home tonight. This home is being built as a spec, this home is not somebody that is trying to build a house for themselves, so this is all predicated on spec, market values potentially etc. This doesn’t pose a hardship to these folks there could be further adjustments made to this and he knows that a considerable amount of money has already been invested in what they have done so far, but it is interesting that they came in with a real heavy duty laundry list of variances that they wanted and he almost thinks they knew that they were going to have to go away, so now they have made some concessions and the concessions are considerable but they could design a house that would fit in there and be within the zoning. The Board tonight has to decide if they are going to allow this issue or precedence to dictate what they are going do tonight or are they going to ask the people involved with it to go back to the drawing board, because this is not a hardship; just the case before they turned it down, they had several letters from the neighbors, they don’t have letters from the neighbors but that doesn’t make any difference relative to the setback on the lake. If they go out on the lake there is a lot of homes sitting on top especially in the Village, the Village has a different set of rules and regulations but unfortunately those homes are up into the 45-50% coverage, they don’t want to be that in the Township, at least he doesn’t think they want to be there. So, he would ask the Board to duly consider the fact that this is not a hardship. He does appreciate that they have put the side lines back to almost within the zoning and he believes those setbacks there on the sidelines are there for safety reasons, because if their house was to happen to catch on fire you certainly don’t want to take the neighbors homes with them. He believes that the setback for the lake was established to protect the lake, they need to protect the lake it is the asset of their community they pay taxes based on that and they don’t want to lose their lake. It is just one little bit at a time and over time they lose it; he asked that at least make sure that they protect the setback for the lake.

Chairman Yaros read a letter that came in from a current resident on 495 Cushing Rd., they were in favor.

Vice Chairman Durham stated that there was a letter from the Fire Marshal that states that he has read through the case and sees no significant issues or concerns at this time. He has seen it and has examined it from their side.

Chairman Yaros said that it is wider than the first proposal would have been, so that helps, every bit helps on the width.

Trustee Flood noted that these lake lots are the most difficult ones they must handle, historically they have struggled with these since he has been on the Board. Most of them were lake cottages and everyone wanted to put homes there now. Everyone has a valid reason here. He likes the concept that he pulled it back, he is very adamantly opposed to their first one and how close it was to the lake.

Building Official Goodloe said that the house is compliant it is the deck that is raised
Chairman Yaros noted that the deck is up in the air.

Trustee Flood added once you approve the one on the top then the one below it is approved. They are not going to make everyone happy.

Moved by Vice Chairman Durham, seconded by Yaros, that in the matter of ZBA case #AB-2019-23, Mike Riddle, unaddressed lot on Cushing St., 09-03-278-026, (this has been postponed from June 10, 2019) requesting 6 variances from Zoning Ordinance 78, Article VI, Section 6.04 Zoned R-3: 1) a 15-ft. rear yard setback variance from the required 35-ft. rear yard setback to the (west) to build a 20-ft. from the lot line. 2) a 3.89-ft. front yard setback variance from the required 30-ft. front yard setback to build a house 26.11-ft. from the lot line (east). 3) a 2-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 7-ft. from the lot line (north). 4) a .17-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 8.83-ft. from the lot line (south). 5) a 3.23-ft. setback variance from the required 20-ft. setback for structure to shoreline of a lake, to build a deck 16.77-ft. from the shoreline of a lake. 6) a 12% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 37%, be granted because the petitioner did demonstrate that the following standards for variances have been met the petitioner shows that there is some Practical Difficulty: the lots are substandard size and they are not going to make anymore so it is a matter of having to build a house that will in fact be saleable, enjoyable and fit in nicely with the rest of the homes in the area; the petitioner also came back from the June 10th meeting with new specs for the variances tonight he has worked quite well and diligently with this Board to satisfy some of there concerns before; the following are exceptional or extraordinary circumstances or conditions applicable to property that do not generally apply to other properties in the same district or zone: it is a lake lot and it is on the small size, they want to maximize to the degree possible the house that they are going to put on it; the deck involved is the major part of the variance it is elevated it does not cover the ground it does not cover grass; the variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity: it fits in very well with other houses in the area and the lot size the 6 can only pull the house down so far; granting of the variances or modification will not be materially detrimental to public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following: it fits in with the houses that are around it, it has adequate spacing, the Fire Department of the Township has looked at the plans they have looked at the case they have stated they have no concerns; granting these variances will not impair an adequate supply of light or air to adjacent property; it will not unreasonably increase congestion in public streets: they have shown that they can get three cars in a parking area which are not doable in some of the houses down the road; it would not increase the danger of fire or endanger public safety; it will not unreasonably diminish or impair established property values within the surrounding area; if anything it will help to increase property values in the area.

Amended by Vice Chairman Durham, seconded by Chairman Yaros, that the findings of facts as far as hardships the meandering lot line along the lake lead to part of the problem with the setback of the deck, if it was squared off it would not have been a problem.

Roll call vote was as follows: Durham, yes; Flood, yes; Walker, yes; Yaros, yes.

Motion Carried 4-0

AB-2019-25, The District Venue, 4005 S. Baldwin, 09-29-326-031
Chairman Yaros read the petitioners request as follows:

The petitioner is requesting 1 variance from the Sign Ordinance No 153:
Section 7, Residential Zoned Areas - Ground Signs
1) A 20-ft. variance from the required 20-ft. Road Right-of-Way setback, to erect a ground sign on the Road Right-of-Way line.

and, is requesting 1 variance from Zoning Ordinance #98: