1. OPEN MEETING

2. ROLL CALL

3. MINUTES
   A. 11/28/2022, ZBA Meeting Minutes

4. AGENDA REVIEW AND APPROVAL

5. ZBA BUSINESS
   A. AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024
      The petitioner is seeking 3 variances from Zoning Ordinance #78 - Zoned R-2
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)
      1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

      The petitioner is seeking 3 variances from Zoning Ordinance #78 - Zoned R-2
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)
      1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
      2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

   C. AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012
      The petitioner is seeking 3 variances from Zoning Ordinance #78 - Zoned R-2
      Article XXVII, Section 27.02 (A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

   D. AB-2022-50, Jonathon & Allison Iversen, 481 Parkview Ct., 09-12-376-002
      The petitioner is seeking 1 variance from Zoning Ordinance #78
      Article VI, Section 6.04 - Zoned R-1
      1. A 7.1-ft. front yard setback variance from the required 40-ft. for an attached garage to be 32.9 ft. from the front property line.

   E. AB-2022-51, General Motors Orion Assembly, 4555 Giddings Road, 09-34-200-006 & 09-34-400-011
      The petitioner is seeking 1 variance from Zoning Ordinance #78 - Zoned IC
      Article XIX, Section 19.04
      1. A 5-ft. height variance from the maximum height of 120-ft. for structures to be 125-ft. tall.

6. PUBLIC COMMENTS

7. COMMUNICATIONS
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, November 28, 2022, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS ABSENT:**
Mike Flood, BOT Rep to ZBA

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

**OTHERS PRESENT:**
Jon Stine
Jeff Hansen

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

2. **ROLL CALL**

3. **MINUTES**

4. **AGENDA REVIEW AND APPROVAL.**

Board member Dunaskiss moved, seconded by Board member Walker, to approve the 11-14-2022 minutes as presented.

Motion Carried

5. **ZBA BUSINESS**

A. **AB-2022-48, Jonathan Stine, 2025 Bald Mountain Rd., 09-24-100-008**

Chairman Durham read the petitioners request as follows:
The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-1

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 40-ft. front property line setback variance from the required 40-ft. for a 6-ft. fence to be 0-ft. from the intersection of the front and side property lines (west).
2. A 10-ft. side property line setback variance from the required 10-ft. for a 6-ft. fence to be 0-ft. from the side property line (west).
3. A 10-ft. rear property line setback variance from the required 10-ft. for a 6-ft. fence to be 0-ft. from the intersection of the rear and side property lines (west).

Mr. Jon Stine introduced himself and summarized the variance request to put a 6 foot fence up along the rear of his property. He explained that the adjoining neighbor has a fence up that goes 15 feet into his property.

Chairman Durham asked why there is no fence there now and there is a gap.

Mr. Stine replied he does not know; he has only owned the home for a short time. He stated that currently what is there is an old, rickety fence that is in disrepair and needs to be replaced. He also has two grandchildren and they purchased the property thinking that they could enclose the property for his dogs and his grandchildren.

Chairman Durham asked why a 4 foot fence is not sufficient.

Mr. Stine stated that the 4 foot would not be sufficient for his dogs, it would look better because it would have continuity to what is already there and the adjoining subdivision does not allow chain link fences and the neighbors do not want to look at a chain link fence. He would like to put in a nicer looking continuation of a fence that is already in place. If the verdict is no, he will be forced to put up a chain link fence.

Board member Dunaskiss asked why he wouldn’t put a 4 foot fence on the side where the current wood fence is.

Mr. Stine replied he could. He would be paying much more for a wooden pre-fab fence. He would refuse to pay the money to cut them down to 4 feet. He explained the location of the proposed fence. He would like to save money with a chain link fence, but he doesn’t think it would look good.

Chairman Durham asked if there was public comment for this case.

Ms. Amber Rushlow, neighbor, explained where her property and existing fence are located in reference to the petitioner’s property. She wanted to hear the clarification of the proposed plan and that is why she came this evening. Her subdivision does not allow chain link fences and now there is a possible chain link fence proposed right along her property and she is disappointed by this. There is an easement between the houses but when the easement was cleared, the house was apparent and she does not want to see a chain link fence. She explained the existence of the existing fence. She is not excited about a fence, but they would be okay with a wooden fence and she would rather this than a chain link fence. She talked to another neighbor who agreed with her. Her back yard is not very deep so she doesn’t want the fence because it will fence her in.

Chairman Durham asked if she felt that she would look through a chain link fence instead of at a wooden fence.

Ms. Rushlow stated that they will look over the fence anyway because of the topography of the property. The applicant’s dogs bark if they can see them and it will stop that. Also, when they are in the yard, there would be more privacy. She thinks the wood fence would look better.

Chairman Durham asked Ms. Rushlow if her house was part of the original build.
Ms. Rushlow replied that her house is the last phase. She explained that most of the fence was knocked down during a recent tornado.

Board member Dunaskiss stated that a portion of Ms. Rushlow’s property abuts the park.

Vice-chairman Cook asked Ms. Rushlow how she controls her dogs when they are out in her yard.

Ms. Rushlow replied that they have an electric fence.

Vice-chairman Cook asked Ms. Rushlow if when the fence stops, is there a gap or does it just end along the backyard.

Ms. Rushlow explained that the current fence stops at her yard. It does not continue further down. Once you get past her yard, it is all Bald Mountain behind her house.

Vice-chairman Cook asked Ms. Rushlow if she was concerned about keeping her dogs in her yard, or is she primarily concerned about the neighbor’s dogs.

Ms. Rushlow stated that if the dogs cannot see her, she feels like they would not bark as much. They used to not be able to see the applicant’s home because there was 30 feet between the houses that was wooded. When the applicant moved in, they cleared the woods out and now you can see through.

Vice-chairman Cook stated that when dogs cannot see, they have a tendency to bark more.

Ms. Rushlow stated that the dogs can see her in her house and the dogs bark at her. Her dogs cannot go to the line because the electric fence stops them.

Vice-chairman Cook asked if she has approached the HOA to extend the fence.

Ms. Rushlow stated that if it was her property, it would not be allowed because they are not allowed to have fences.

Board member Walker stated that the applicant wants the fence so it blends in with the rest of the fence.

Mr. Stine answered yes.

Board member Walker stated that the ordinance does speak to things like that, it talks about practical difficulties and self-created things. He is having a hard time seeing the ordinance standards in this request.

Mr. Stine stated that regarding clearing things out between the properties, they did not take any trees down unless it was dead. They had vines between their properties that were going across the canopy and drooping down and these vines were choking out the existing trees. So, they either yank those down or not and nature would end up killing all of the trees. They want to keep as much of a nature barrier between their homes but in doing so, they needed to maintain the nature. They cannot do this behind them in the park, but they could in the area between their house and the neighbors.

Chairman Durham read a communication that the Board received from a neighbor, Phyllis Slight who expressed concerns about the requested variance.

Mr. Stine stated that his property is 100 feet by 200 feet so it is long and skinny. He described where Ms. Slight’s property is in relation to his.

Chairman Durham stated that the application asks the applicant if the situation is self-created, and this applicant responded yes. The applicant also said in his application that he is able to meet the setbacks as per ordinance.
Mr. Stine stated that he didn’t understand the wording of the application and how it related to him and he explained. He is asking instead of installing a 4 foot chain link fence, to continue what is there now. He did not receive any coaching from staff and didn’t understand how the questions related to him.

Chairman Durham stated that the Board is discouraged from giving variances unless there is a very particular set of circumstances and he explained the Board’s role in granting a variance. He doesn’t see anything in this applicant’s situation that is not self-created so he would have difficulty supporting the request.

Mr. Stine stated that he can put up a chain link fence which would be disappointing for both parties involved and he reiterated his reasons for asking for a variance.

Chairman Durham stated that this neighborhood has been the source of a lot of fence controversy.

Mr. Stine concurred.

Ms. Rushlow agreed with Mr. Stine in not wanting a chain link fence in her backyard because there is no way that this is good for the property values. She pays HOA dues every year and now she is going to have a chain link fence in her back yard; this is not fair. She can deal with looking at a privacy fence but she doesn’t want to look at a chain link fence in her back yard. If she wanted to look at a chain link fence, she would not have moved to the subdivision that she did. Only her property has this situation with being butt up against another house.

Board member Walker stated that the Board is not suggesting that the applicant put up a chain link fence. The fact is, they could put up a 4-foot fence without a variance. He described the alternative of having a 4 foot fence right on the property line.

Board member Dunaskiss moved, seconded by Vice-chairman Cook, in case AB-2022-48, Jonathan Stine, 2025 Bald Mountain Rd., 09-24-100-008 that the petitioner’s request for 3 variances from Zoning Ordinance #78 – Zoned R-1, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 40-ft. front property line setback variance from the required 40-ft. for a 6-ft. fence to be 0-ft. from the intersection of the front and side property lines (west), a 10-ft. side property line setback variance from the required 10-ft. for a 6-ft. fence to be 0-ft. from the side property line (west) and a 10-ft. rear property line setback variance from the required 10-ft. for a 6-ft. fence to be 0-ft. from the intersection of the rear and side property lines (west) be denied because the petitioner did not demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did not demonstrate a practical difficulty defined as unique characteristics of the property and not related to general conditions in the area of the property. A 4 foot fence, whether it be wood construction or chain link construction, would be sufficient and a 6 foot fence is not required.

2. The following are not unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone; other than the fact that the appearance of a 6 foot fence next to a 4 foot fence, this is not a practical difficulty or a circumstance that would warrant a 6 foot fence in addition to what is currently there.

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 not be materially detrimental to public welfare.
5. The applicant has not demonstrated that there is a practical difficulty or a unique characteristic of the property in which the resident that would warrant the construction of a 6 foot fence on the property line, a 4 foot fence is available to the applicant either chain link or wood construction.

This application is date stamped October 17, 2022.

Board member Walker commented that both the applicant and the neighbor make a good argument for preserving the look and they have no doubt that it would look better as it was requested. However, this is not a criterion that the Zoning Board of Appeals have any authority to use.

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

B. AB-2022-49, Jeff Hanson, 3936 Maybee Rd., 09-30-200-037

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SF

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses
1. A 556-sq. ft. variance above the allowed 852-sq. ft. (75% of the principal structure) for an attached accessory structure to be 1,408-sq. ft.

Mr. Jeff Hanson introduced himself and summarized the variance request to build a pole barn with an attached breezeway to attach it to the house.

Chairman Durham stated that he is glad the applicant removed the other garage so there is no problem with number of accessory structures. He asked what it will look like.

Mr. Hanson provided a sketch of the proposed building to the Board members. The existing home does not have any room for a mudroom area so this variance would give them that.

Chairman Durham stated that the Fire Marshall weighed in on this case and the previous case and he has no issues with the variance request.

Mr. Hanson commented that the metal roof will be Amish constructed.

Chairman Durham asked where the Amish work force comes from.

Mr. Hanson replied Brown City.

Vice-chairman Cook asked the applicant about #5 question on the application that the applicant did not answer.

Mr. Hanson stated that it was no self-created because the house never had a garage that was attached to the house, and he is trying to make it that way.

Board member Dunaskiss confirmed that the garage is a one-story structure with storage in the attic area. She asked why the applicant did not build an attached structure from the beginning.

Mr. Hanson replied that he went back and forth with the design, and it probably had to do with square footage. He decided to try to see if they can attach it with the breezeway.

Chairman Durham stated that this addition would not have any effect on anybody other than the applicant.
Mr. Hanson concurred.

Board member Walker moved, and Vice-chairman Cook supported, in case AB-2022-49, Jeff Hanson, 3936 Maybee Rd., 09-30-200-037 that the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned SF, Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses for a 556-sq. ft. variance above the allowed 852-sq. ft. (75% of the principal structure) for an attached accessory structure to be 1,408-sq. ft. be granted because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does demonstrate a practical difficulty: due to the unique characteristic of the property, 4 acres, 138’ X 1300’, and is a long and narrow lot.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the ordinance calls for 1,400 square feet for 2.5 acres and there has been discussion by the Board of Trustees to change this to increase the 2.5 acre value. In this case, it is an acre and a half larger than the largest amount in the ordinance.

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

4. Granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire according to the Fire Marshall. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

This application and plans associated with this case are date stamped October 27, 2022.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS
Chairman Durham commented that the Computer Safety Training needs to be completed by each Board member.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS
Board member Walker commented on the successful Library Silent Auction.

Chairman Durham stated that he will not be attending the meeting in December. He thanked the Board members and Building Official Goodloe for their support throughout the year.
10. ADJOURNMENT

Moved by Vice-chairman Cook, seconded by Chairman Durham, to adjourn the meeting at 7:56 pm.

Motion carried

Respectfully submitted,

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

FROM:     Lynn Harrison, Planning & Zoning Coordinator

DATE:     December 12, 2022

RE:       Case location for ZBA Meeting 12/12/2022

Below are the locations of the ZBA cases for the December 12, 2022, meeting.
Charter Township of Orion
Planning Division
2323 Joslyn Rd., Lake Orion MI 48360
P: (248) 391-0304 ext. 5001; Fax (248) 391-1454

MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: December 1, 2022
SUBJECT: Staff Report for AB-2022-30, Adam Martin, 2936 Saturn Dr.

The applicant is proposing to add a 6-ft. fence along the property line that borders Waldon Road. The case was originally presented at the August 8, 2022 ZBA meeting and was postponed to the October 10, 2022 meeting. It was then postponed to this meeting as ZBA 2023 meeting dates had not yet been approved.

The minutes indicate that the applicants with related requests within this subdivision where waiting to see if their HOA was going to address the 6-ft. fence issues within the community. To date, this department has not received any information from the HOA or the applicants to that affect.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022


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

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-30, Adam Martin, 2923 Saturn Dr., 09-20-453-024**, I move that the petitioner’s request for:

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

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

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

Please be specific how the petitioner meets these criteria

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

   

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

   

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

   

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

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # **AB-2022-30, Adam Martin, 2923 Saturn Dr., 09-20-453-024**, I move that the petitioner’s request for:

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

   

   

   

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

   

   

   

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

   

   

   

   

   

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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

***** MINUTES *****
REGULAR MEETING – MONDAY, October 10, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 10, 2022, at 7:02 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board member
Joann Van Tassel, Alternate Board member

ZBA MEMBERS ABSENT:
Tony Kerby, Alternate Board member
Tony Cook, Vice-Chairman

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Mike Riddle
Pete Smilanic
Nancy Smilanic
Mat Dunaskiss
Adam Martin

1. OPEN MEETING
Chairman Durham called the meeting to order at 7:02 pm.

2. ROLL CALL

3. MINUTES

A. 09-26-22, ZBA Regular Meeting Minutes
Trustee Flood moved, seconded by Board member Dunaskiss, to approve the 09-26-2022 minutes as presented.

Roll Call Vote was as follows: Dunaskiss, yes; Walker, yes; Flood, yes; Durham; yes. Motion passes 4-0.

4. AGENDA REVIEW AND APPROVAL.
Trustee Flood moved, seconded by Board member Van Tassel, to approve the agenda as presented.

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

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

Board member Walker moved, supported by Chairman Durham, to recuse Board member Dunaskiss from Case AB-2022-36 due to Board member Dunaskiss’ request.

Roll Call Vote was as follows: Van Tassel, yes; Flood, yes; Walker, yes; Durham, yes. Motion passes 4-0.

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3
1. A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a deck 19.75-ft. from the front property line (lakeside).
2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.).
3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north)
4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south).
5. Revised A 1.63-ft. height variance from the required 30-ft. to build a house 31.63-ft. high.
6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.
7. An 8-ft. side yard setback variance for retaining walls to be 0 ft. from the property lines north and south

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

Pete and Nancy Smilanic introduced themselves and Mike Riddle with Rison Construction, introduced himself.

Chairman Durham pointed out revisions to the plan that make it more compatible with the Township’s Zoning Ordinance.

Board member Walker asked about the Fire Marshall’s review. He asked if the letter from September 21st was the last review letter. He understands that the petitioners have been back and forth with changes but he questions the recommendation made by the Fire Marshal and if it was made when the request was 10 feet.

Board member Van Tassel stated that the zoning ordinance has more authority over what is allowed than Building Codes. The request should be viewed based on what the zoning ordinance says and she pointed out that the height was reduced which was the Fire Marshal’s concern.

Trustee Flood concurred.

Board member Van Tassel stated that there is an elevator on the south side but there is no indication that there are elevator doors.

Mr. Smilanic explained the location of the elevator doors.

Board member Van Tassel asked about the interior of the home.

Mr. Smilanic explained the interior design of the home using the displayed plan.
Board member Van Tassel asked if there were stairs on the exterior that lead from every level.  

Mr. Smilanic replied yes. He pointed out the stairs using the displayed plan.

Board member Van Tassel asked if there was public water at the site.

Mr. Smilanic replied no.

Board member Van Tassel asked about the water source.

Mr. Smilanic replied that they have a sewer and a well.

Board member Van Tassel asked if the petitioner had thought about having a sprinkler system.

Mr. Smilanic replied that each floor is constructed out of concrete. He explained the construction of the home. He doesn’t think that he has a need for a sprinkler system because of the structural elements.

Board member Van Tassel commented on the other parts of the home like the mechanical room.

Trustee Flood stated that he talked to the Fire Marshal prior to the height adjustment that the petitioner made. He appreciates the fact that the petitioner reduced the height, reducing it from 40 feet to 31 feet. The practical difficulty is the elevation of the property and this was a concern of the Fire Marshal. There will be living quarters above the garage and the Fire Marshal was concerned because if for some reason the Fire Department could not access a fire from the front, they would have to put a ladder up on the rear of the house and this is where the severe drop in elevation is. This is why the 30 foot height is in the ordinance. There are stairs on the outside of both sides which will provide access as well. The Fire Department measures height a different way than Zoning Ordinance #78 does. This variance is based on Ordinance #78 criteria. He would not have been in favor of going 40 feet high and he appreciates the drop in height.

Mr. Smilanic stated that this was a good recommendation that they knew they needed to follow.

Chairman Durham commented on the letter from the Fire Marshal who still has some concerns about the variance. The International Fire Code seems to be in conflict with the local ordinance. He wishes that there could have been an agreement reached where all parties were in agreement although the Fire Marshal is much happier with the reduction in height.

Mr. Riddle stated that they worked over the last several months trying to bring the home as close to the ordinance as they could. This home’s entire back patio is flat, solid concrete and it is stable. They are also areas all of the way around the home that have stable areas to locate a ladder. He knows that there is still some concerns, but they tried to get as close as possible and based on the fire rating and working around the perimeter, this home is a lot better than other homes.

Chairman Durham asked if they heard the words “area of refuge”.

Mr. Riddle answered yes.

Chairman Durham explained “area of refuge” as it relates to fire fighting.

Mr. Smilanic pointed out the “area of refuge” using the displayed home plans.

Chairman Durham commented that he is happy to see and hear this.

Building Official Goodloe stated that the International Fire Code governs the Fire Access. The structure itself is governed by the Michigan Residential Code which only requires one main egress door for a home otherwise each bedroom has to have egress windows for sleeping areas. He would like to know where the egress windows are for the upper two levels since the main level has a front door. The issue was the road...
because they are having several structures put on this road and the road is not able to carry a fire truck with an apparatus to get to the top of a 49 foot building. This was the Fire Marshal’s main concern.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, seconded by Board member Walker, in the matter of ZBA Case, AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 12 parcels south of 576 Cushing St., 09-03-278-027 that the petitioners’ request for 8 variances from Zoning Ordinance #78 – Zoned R-3, including Article VI, Section 6.04, Zoned R-3 for 1.) A 10.25-ft front yard setback variance from the required 30-ft, to build a house with a deck 19.75-ft. from the front property line (lakeside); 2.) A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.); 3.) A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north); 4.) A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south); 5.) A 1.63-ft. height variance from the required 30-ft. to build a house 31.63-ft. high; 6.) 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%; 7.) An 8-ft. side yard setback variance for retaining walls to be 0 ft. from the property lines north and south and from Article XXVII, Section 27.17 (B), an 5.25-ft. wetlands setback variance from the required 25 feet to build a house with a deck 19.75 feet from a wetland lake be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioners showed the following practical difficulty: mainly due to the unique characteristics of this property which severely goes down from Cushing Street to the lake. The petitioner is trying to build a house that would be compatible on this property which is a permitted use for this property. There were several meetings and compromises back and forth between the petitioner and the consultants in this case to try to work it out. Most of the variances have been reduced from the original filing due to these meetings and conversations between the parties.

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: this lake lot is very difficult as it relates to its elevation, also, street access is limited to all of the houses on the street.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: this is similar to a lot of lake lots in the Township – needing side yard setback variances so that a permitted use such as a house, would fit properly in the area.

4. Granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located; the letter from the Fire Marshal dated 9/21/22, which they approved with comments, should be a part of this motion and made part of the record.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. By building this type of structure with a two-story garage giving relief the road - it would keep cars off of the street. There is also not going to be an increase of fire, or endanger public safety - referring to the Fire Marshal’s letter dated 9/21/22 which approved with comments. Granting of the variances will not reasonably diminish or impair established property values within the surrounding areas, it will in fact improve property values, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Van Tassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 4-0.
Board member Dunaskiss re-joined the Board members.

**B. AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024** (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner's request as follows:

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

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

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

Mr. Adam Martin introduced himself and summarized the variance request. He requested a postponement until the end of February 2023 to give them a chance to speak to the HOA and see what other options are available.

Building Official Goodloe stated that the dates are not set yet for 2023 until they are voted on in December 2022 and suggested that they move the petitioner to a date that is known.

Mr. Martin stated that with the holiday season, he doesn’t think a lot of movement will happen with the HOA.

Chairman Durham stated that the Board cannot give the petitioner a date, but will take note that he would like a date in 2023.

Mr. Martin stated that he is flexible on when he comes back. He stated that they might be able to find an option so they would not need a variance and they would be able to cancel.

Board member Walker asked if there was anything in the by-laws that would allow the petitioner to come back.

Building Official Goodloe stated that if they do not have a date certain, the Township will charge the re-advertise fee. He suggested that the petitioner take the date of November 28, 2023. The Board could possibly set the 2023 dates at that meeting.

Board member Van Tassel asked about the rear setback variance request.

Mr. Martin stated that they have a practical difficulty because their property borders both Saturn Drive and Waldon Road so he is forced to observe two front yards.

Board member Van Tassel asked about the application asking for a 6 foot fence along the back of the property, not along the fence. She asked what the petitioner is seeking.

Board member Dunaskiss stated that the petitioner is erecting the fence along the rear of the property but it will extend 10 feet on each side so it goes to the property line.

Board member Van Tassel stated that the rear property line does not stop 10 feet from the side, it goes the entire way.

Board member Dunaskiss stated that if he was building a 4 foot fence, he could take it all of the way to the sides but since he is building a 6 foot fence, he would need to stop it 10 feet from each side.
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Trustee Flood stated that this is the way the ordinance is written and interpreted.

Building Official Goodloe stated that the last meeting in 2022 is December 12th.

Board member Dunaskiss moved, seconded by Chairman Durham, that in the matter of ZBA Case AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024 that per the petitioner’s request, this matter be postponed until the meeting on December 12, 2022. At that time, there might be a request to postpone to a date certain but the Board does not have established meeting dates for 2023 yet.

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

C. **AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013** (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner’s request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. 00A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Backus introduced himself and stated that he was there in support of the others on the agenda asking for variances for a fence.

Chairman Durham asked if anything had changed since the petitioner was here before.

Mr. Backus replied no. He has a lot of people that cut through his yard. He is the last house at the canal and his property is ideal to cut through from Waldon to Walmsley Circle. He would like to stop this. Since he has built the house, there have been a lot of changes that have created a lot of noise along Waldon Road and he explained. This fence would help block this noise. He has had things stolen from his yard too and he would like to have a nicer fence like they put up along Baldwin Road.

Chairman Durham asked if his property has the entire area cut back and has arborvitae planted.

Mr. Backus replied no. He has let all of the brush grow up. He is aware that he can have a 4 foot fence without a variance but feels that a 6 foot fence would be a lot better to address his concerns. He doesn’t like the idea of having all different types of fences.

Board member Van Tassel stated that the aerial photograph indicates that 35 feet of the property is parallel with Waldon Road. There is also a piece of the property that is at an angle to that which is about 60 feet which he is not asking for any fencing for. If the petitioner’s concern is for people cutting through, this 60 feet would still be open allowing that.

Mr. Backus stated that he doesn’t hear very well and doesn’t understand what she is saying.

Board members and Mr. Backus discussed the property lines of the subject lot.
Board member Van Tassel stated that wood is a hard surface that sound will bounce off of. She suggested that they plant arborvitae along the property line which will absorb the sound. They will grow and will do a good job of absorbing noise.

Trustee Flood stated that this is a Homeowner’s Association concern because they are replacing an original split rail fence that was along the roadway. The 4 foot shadowbox fence will solve the problem. The HOA should take care of this for the residents. There was a site plan made up for this development.

Board member Walker stated that the case right before Mr. Backus postponed his case so they will have time to come up with a solution. Mr. Backus has the right to postpone or the Board can vote on this case.

Building Official Goodloe stated that the Fence Committee is looking to address the two front yard issue.

Chairman Durham stated that it is going to take change by the HOA to correct this problem.

Mr. Backus indicated that he would like to postpone his case to December 12, 2022.

Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 that per the petitioner’s request, this matter be postponed until the meeting on December 12, 2022.

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

D. AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner’s request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

No petitioner was present.

Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 that this matter be postponed until the meeting on December 12, 2022 due to the fact that the petitioner was not present.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

8. COMMITTEE REPORTS
9. MEMBER COMMENTS

Board member Van Tassel commented on the postponing of the last case and the variances requested during this meeting.

Board members and Building Official Goodloe discussed the rear property line fence variance request and offered historical comments regarding variances in the Township.

Chairman Durham and Board member Walker commented on the legal opinion that was offered for the first case and as to the Board acting “slight and capricious.”

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 8:23 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 8, 2022, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS ABSENT:**
None

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

**OTHERS PRESENT:**
- Ted Adams
- Christi Adams
- Adam Martin
- Lori Martin
- Kenneth Backus
- Mike Humbert
- Catherine Bako
- Kris Baker

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

2. **ROLL CALL**

3. **MINUTES**

   A. **07-25-22, ZBA Regular Meeting Minutes**

   Board member Dunaskiss moved, seconded by Chairman Durham, to approve the 07-25-2022 minutes as presented.

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

4. **AGENDA REVIEW AND APPROVAL.**

   Trustee Flood moved, seconded by Chairman Durham, to approve the agenda as presented.

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

5. **ZBA BUSINESS**

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

   Chairman Durham read the petitioners request as follows:

   The petitioner is seeking 4 variances from Zoning Ordinance #78 – Zoned R-2
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Article XXVII, Section 27.17(B)
4. A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland.

Mr. Ted Adams and Christi Adams introduced themselves.

Chairman Durham stated that the Fire Department has no concerns with any of the cases on the agenda for tonight’s meeting. The Board received two letters. The first was from Mark Tarquini, 2823 Waring Place, Director of Keatington Homeowner’s Association, in support for the 6-foot height variance and the setback variances requested for the properties along Waldon Road and Chairman Durham listed all property addresses that the letter supports. The second letter was received from a neighbor expressing concerns and comments regarding the request for height and setback variances for fences along Waldon Road.

Mr. Adams summarized the variance request. They would like the 6-foot fence because of privacy and safety concerns.

Ms. Adams stated that when they purchased the home, they were told that a 6-foot fence was being paid for and put up by the Homeowner’s Association but after they moved it, they found out that this was false information. She explained what they have done up to this point to alleviate their concerns. They tried putting up a wood wall, but this was not effective. They also planted vegetation and the trees did not thrive and were not effective. When they heard about the fences that were placed on Baldwin Road, they thought this was their opportunity.

Chairman Durham asked if the traffic on Waldon Road has increased since they purchased the home.

Mr. Adams and Ms. Adams replied that it has definitely gotten busier, both traffic and pedestrian.

Ms. Adams expressed concerns over motorist stopping and trespassing on her property. People that walk along the path can see right into their home and a 4-foot fence could simply be looked over and would not provide privacy.

Chairman Durham asked how 2 more feet would help.

Ms. Adams replied that it would deter someone from hopping over the fence. If someone wanted to remove something from their property, it would be harder to take it over a 6-foot fence. When they have a 6-foot fence, it is more difficult to see a passing walker on the path.

Chairman Durham stated that he is concerned about a fence going into a wetland setback.

Mr. and Mrs. Adams explained that they have had individuals park and go onto their property to fish.
Trustee Flood asked if she had called the police.

Ms. Adams explained that she was afraid of repercussions.

Trustee Flood explained that the petitioner was actually asking for a site plan change because they are asking to replace a split rail fence that was part of the original site plan approval. He stated that they have a problem with 6 feet fences in the township. He thinks this is a Homeowner's Association problem.

Ms. Adams stated that there is a lot more truck traffic on the road now.

Trustee Flood commented on traffic problems on Baldwin Road. He reiterated that this is a Homeowner's Association problem because they are changing the site plan for the development. He thinks this should be worked out through planning and zoning.

Ms. Adams commented that they had listened to other meetings as to the fact that each was a case-by-case basis and she understood that this was the meeting that they should attend. She stated that for them to pay the money and then you say that they should go to the Homeowners Association, this does not seem fair.

Trustee Flood stated that he will base his decision on the practical difficulty. He believes that a 4-foot fence will suffice, and he explained.

Ms. Adams stated that the view is fine now, it is worse during the winter months.

Trustee Flood asked if the petitioner had informed the Homeowner’s Association about what is going on.

Ms. Adams stated that if someone comes down Waldon and enters the ice, they are supposed to call the Homeowner's Association.

Trustee Flood commented on beach access in the area. He is not in favor of any 6-foot fence in the Township.

Chairman Durham asked for public comment.

Mark Rossi stated that he was the first one that was approved for a fence on Waldon Road. This petitioner’s case is amplified because of their proximity to the lagoon. The security issue is huge. He commented in the changes in the Township over the years. This petitioner is worse than his case because they have constant traffic, sound, etc. The quality of life that is affected by the changes in the Township affect them more drastically. The four-foot fence will not suffice, and a 6-foot fence is more secure and he commented on the visual aspect of having a barrier. His quality of life has increased since he was able to put up the fence.

Ms. Adams stated that they are willing to work with the Township if there is a setback issue. There isn’t anything they can do about the water’s edge.

Mr. Adams commented on the large tree on his property and explained that he would like the fence to go on the side of the tree.

Chairman Durham asked if they have considered greenery.
Ms. Adams commented that they had planted 14 evergreens and 3 lived.

Chairman Durham asked if the trees withholding the sun belong to the petitioner.

Mr. Adams and Ms. Adams stated that they do not know.

Trustee Flood stated that it would depend on the road right of way on Waldon Road.

Board member Walker stated that they can have a 6-foot fence if they move it in.

Ms. Adams stated that they asked for the setbacks so the neighbor’s fences and their fence would touch without a 10-foot gap. They understand that they can put a 6-foot fence 35 foot from Waldon Road, but they did not want to lose 35 feet.

Mr. Adams stated that that would probably be within their beach.

Board member Walker stated that he voted for Mr. Rossi’s fence but that was the last one. The problem is, they need a practical difficulty that goes with the land. He understands the changes that the Township has experienced but they would have to have to find practical difficulty with every case. He thinks this is the wrong solution. The right solution is to change the ordinance. He also is concerned with the wetland issue. They are asking for a variance against the wetland’s ordinance.

Ms. Adams stated that there is a split rail fence, and they want to put the 6-foot fence in the same location.

Chairman Durham asked Building Official Goodloe about the need to find practical difficulty with each case.

Building Official Goodloe stated that they are looking for unique circumstances that apply to the property.

Ms. Adams explained her concerns about someone drowning on her property and not being able to do anything about it.

Chairman Durham stated that how does the petitioner know where the people coming into their property are coming from.

Ms. Adams replied that they visually see the majority of them coming from Waldon Road.

Board member Dunaskiss asked if a berm could be built on the property line.

Building Official Goodloe replied yes, as long as it does not affect property drainage to adjacent properties.

Board member Dunaskiss asked if they could build a berm and put the 4-foot fence on top of the berm.

Building Official Goodloe answered yes.
Board member Dunaskiss stated that she shares the concern about the 6-foot fences. It is not the kind of look that is attractive in a community. She shares some of the same concerns with Trustee Flood. There are many trees on the property that are mature and not necessarily healthy and a lot of overgrowth preventing new greenery from being healthy. There is no point to keeping split rail fence. She suggested putting up a berm and putting a 4-foot fence on top and they could make it attractive. It would be safe and would help with visibility. She feels that this is a concern for the Homeowner’s Association, and they should share the burden. She asked if they could look at other alternatives and work with the Association to come up with a plan.

Ms. Adams stated that she can investigate this. Her practical difficulty is worse than Mr. Rossi. The Board is telling them one standard and then they are changing the meaning of practical difficulty.

Chairman Durham stated that they are looked at on a case-by-case basis. The former cases are approved. Each case should be looked at separately. He commented on the availability of coming on the property prior to tonight’s meeting and how that might not be possible with a stockade fence.

Board member Dunaskiss asked if a 4-foot fence would keep the people out of the wetland area.

Ms. Adams replied no.

Mr. Adams commented on what it would look like if he put up a berm and a 4-foot fence and the neighbors put up something different. In his opinion, this would not be appealing at all.

Building Official Goodloe stated that when you are dealing with dimensional variances, he read from a document from MSU. He stated that this document says, “if the circumstances upon which a variance is warranted is shared among numerous properties in the same zone, the variance request should be denied.” It is because it is not particular to that property. If they held the problem of noise to a standard, then everyone could qualify for a variance. This is a bigger issue for the subdivision. When the ZBA grants a variance, it stays with the property. Dogs and disputing neighbors are not a practical difficulty. If it what is being asked for is shared among all the neighbors along Waldon Road, it is not particular to one specific property.

Vice-chairman Cook stated that he is not a fan of 6-foot fences at all. He is trying to come up with a practical difficulty. After he heard what Building Official Goodloe read, it is a commonality among neighbors. When you add the wetland issue, there is a reason why we have a wetland ordinance. He is trying to find a reason why this is unique and is not able to.

Mr. Adams stated that they are the only one along Waldon Road that someone can walk on the property and drown.

Chairman Durham stated that this is a blanket request from several residents. Mr. Adams brought up the issue of being on the water. He suggested that anyone looking to get an ordinance change can make a presentation to the Township Board.

Trustee Flood stated that right now they have a committee that is supposed to be addressing this problem.

Building Official Goodloe stated that anyone can apply at the Clerk’s Office to amend an ordinance. There is an application for that.
Ms. Adams asked who decides how that happens.

Trustee Flood replied the Township Board.

Chairman Durham explained the options to the petitioners.

Mr. Adams stated that he is okay coming back 5 feet, but he cannot do that at the water’s edge.

Chairman Durham stated that this would require them to ask to be postponed and come back to the Board with different measurements and drawing and try again.

Building Official Goodloe stated that they could request a lesser variance.

Chairman Durham commented that they would not be able to provide hard numbers at tonight’s meeting in moving the fence 5 feet.

Board member Walker stated that if the petitioner agrees to move their fence in and the neighbors did not agree to move their fence in, the fences will not line up. They have to think about what it would look like overall.

Building Official Goodloe stated that this is exactly why this is not unique to this property, it also involves the neighbors.

Trustee Flood stated that tomorrow, the petitioners could put a 4-foot line all the way down their property line along Waldon Road and it would be perfectly legal. It is the homeowner’s choice.

Building Official Goodloe stated that he would have to review the wetland area because this is different.

Trustee Flood stated that the Township already has one there. If someone climbs over the fence, that is their fault.

Board member Walker commented that he did not know a resident could fill out a form to change the ordinance, he has never heard of that.

Trustee Flood stated that for anything to be put on a Township Board Agenda, it must be approved.

Board member Walker asked if this item has come before the Board before.

Building Official Goodloe commented on another ordinance amendment that went before the Board.

Trustee Flood stated that they are working to get the Committee back together to get this resolved. The way the ordinance is set up now, if they have two front yards, it is 35 feet setback for this case. The Homeowner’s Association needs to address this. If they get denied, they have recourse to go to Oakland County Circuit Court.

Chairman Durham asked for additional public comment.
Mr. Ken Backus commented on his history of living in the Township. He lives across the canal from the petitioner. He is in favor of the things that the petitioner has presented. He commented on the big trucks that unload at Kroger and that could be a reason for a 6-foot fence. If he had a taller fence, which would reduce the sound being heard. He suggested that if they survey random residents in a mile radius and ask them about the attractiveness of the fences on Baldwin as compared to the fences along Waldon Road. He believes the fences on Baldwin Road are much more attractive.

Mr. Adam Martin, neighbor, pointed out that the petitioner has an attractive nuisance. People that drive down the road and they see access to the water. The unique detriment that the petitioner has is that it is so easy and inviting for individuals to feel that they have access to that space. It is not known that this is personal property, so people assume that it is public property. Out of all the fence cases, theirs is the most unique.

Ms. Adams stated that they cannot put a berm along the wetlands because it would be an EGLE issue.

Chairman Durham asked for final comments.

Mr. Adams asked for a vote on what was presented.

Ms. Adams stated that their unique hardship is people are able to come onto their property and access the water.

Board member Walker moved, and Vice-chairman Cook supported, in the matter of ZBA Case AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023 that the petitioner’s request for variances from Article XXVI, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.; a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east; a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west and a variance from Article XXVII, Section 27.17(B) for a 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland be denied because the petitioner did not demonstrate that the following standards for variances have been met:

The petitioner did not demonstrate practical difficulty in that from the discussions we had with the petitioner, these concerns that the petitioner has does not run, with the possible exception of the water issue. The issues of noise, too many people and trespassing are issues that are known everywhere and all of these things apply to all residents of the Township. It is not practical difficulty due to ownership of that particular property.

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

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-2
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Martin introduced himself and summarized the variance request. He would like to postpone his case so he could come up with a practical difficulty.

Trustee Flood moved, and Chairman Durham supported, at the applicant’s request to postpone ZBA Case AB-2022-30, Adam Martin, 2936 Saturn Drive, 09-20-453-024, to October 10, 2022.

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

Mr. Pat Kaputo stated that he has vegetation along his property and commented that this vegetation is very difficult to maintain. The practical difficulty argument makes no sense, and it makes perfect sense for these residents. It is only a very small percentage of residents of Orion Township who live along Waldon Road. He commented on the increased traffic in the area, the shopping center that was not there when they moved in, the roundabout, and the church. He commented on the weeds along the safety path. He commented on other neighbors that have come before the Board for a fence. The Board doesn't understand how this affects these neighbors’ everyday lives. The Township needs to take care of things in a timely manner.

Chairman Durham stated that practical difficulty is part of the Enabling Legislation.

Mr. Kaputo answered that he is aware, but he questioned the definition of it that the Board is using. He commented on the garbage behind Kroger. He urged the Board to listen to the petitioners.

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Ken Backus introduced himself.

Chairman Durham explained the options for the petitioner.

Trustee Flood asked if the Homeowner’s Association will address this. The fences are the Association's boundary lines and are the Homeowners Association’s problem.
Board member Dunaskiss moved, and Trustee Flood supported, in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013 that this request, at the petitioner’s request, be postponed until October 10, 2022.

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

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Mike Humbert introduced himself to the Board and asked for postponement of his case.

Trustee Flood moved, and Board member Dunaskiss supported, in the matter of ZBA Case AB 2022-32, B-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012 at the applicant's request to postpone this case until October 10, 2022.

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

Chairman Durham urged petitioners that were postponed at tonight’s meeting, come back to the next meeting with some new information. They can contact the Township, Building Department and he asked them to use the time they were given to research new information.

Building Official Goodloe stated that he would gladly meet with any of the petitioners to look for their practical difficulty.

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.
Ms. Catherine Baker introduced herself and her son to the Board. She provided pictures to the Board. She stated that a lot of her concerns involve privacy so anyone can see into their yard. A 4-foot fence doesn’t work. She likes the idea of vegetation, but it is a lot to keep up and things die off. She described the existing vegetation in her yard and the road right of way. She described safety concerns and privacy concerns that she has for her property. She doesn’t understand why the fence is such an issue.

Chairman Durham stated that the 6-foot fence is prohibited by ordinance.

Trustee Flood stated that they can put up a 6-foot fence, 35 feet off the lot line.

Ms. Baker replied that they wouldn’t have any back yard left.

Mr. Baker stated that this is why they are asking for the variance.

Trustee Flood stated that this is why the ordinance needs to be addressed.

Mr. Baker stated that the Board has the power to approve the variance so therefore, they are trying to push it on someone else.

Chairman Durham asked for public comment.

Mr. Rossi stated that the rules have changed since he was approved. They have people that have received approval along Baldwin Road and now everything has changed on how the Board is looking at it. He suggested that the Board work on what they want from the Homeowner’s Association so that they can present it to the President and try to get it done. The Association is not concerned with the perimeter of the property that involves a small percentage of people in the development.

Trustee Flood asked if they should contact Building Official Goodloe.

Building Official Goodloe stated that they should talk to Tammy Girling, Planning and Zoning Director, to find out if it was a PUD or a site plan for this development. They need to find out if the development would consider putting a fence around the perimeter.

Trustee Flood commented that hopefully they can work this out without getting lawyers involved.

Ms. Adams stated that she watched the videos of the people who got approved for the fences. Vice-chairman Cook suggested that they get a group together for conformity. She surveyed the group and got the neighbors together and now she feels responsible for all the monies spent. She felt that they were doing what they were supposed to do and now they are telling them to do something different. Something should have been said before all the time and money was wasted.

Ms. Baker explained how she decided to go to the Board for a variance. She reiterated her concerns about safety and privacy.

Building Official Goodloe stated that having two front yards can be considered a practical difficulty. He stated that 10 foot is the minimum setback off a regular rear yard. He suggested she think about this and the topography of the yard when appealing to this Board. He suggested that they look for a compromise.

Ms. Baker explained her property difficulties.

Building Official Goodloe suggested that the petitioner put this all together and come back. None of the practical difficulties were on the application. He suggested that the petitioner look at the uniqueness of their properties.
Building Official Goodloe suggested that the applicants read the minutes from the meetings where the fences were approved. This Board can only look at what they are presented in the application and what they are presenting here. The Board can only vote on what goes with the land.

Chairman Durham explained the options to the applicant.

Ms. Baker explained all the effort that she has put in so far. She does not want to postpone.

Vice-chairman Cook asked what she has done in terms of planting vegetation.

Ms. Baker stated that she planted 10 of the emeralds and all of them died. She explained the problems with the vegetation in her yard.

Mr. Baker explained that the Black Walnut trees on the other side release a toxin inhibiting other plants to grow so it is impossible to get things to grow on that side.

Trustee Flood asked who owns the road right of way.

Building Official Goodloe replied that he doesn’t know.

Trustee Flood stated that he would like clarification. He believes that it is an Oakland County right of way.

Ms. Baker expressed her concern about the vegetation in the road right of way. She reiterated her privacy and safety concerns. She does not think a 4-foot fence is sufficient.

Chairman Durham asked for public comment.

Mr. Kaputo commented on the vegetation in the area and the pathways in the area. He commented on the neighborhood plan and the visibility of the subject parcel.

Ms. Baker reiterated her safety concerns.

Mr. Baker reiterated why a 4-foot fence would not help with their privacy concerns.

Board member Dunaskiss moved, and Vice-chairman Cook supported, in the matter of ZBA Case AB-2022-33, Catherine Baker, 2933 Walmsley Circle Dr., 09-20-381-004 that the petitioner’s request for 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east and a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west be denied because the petitioner did not demonstrate that the following standards for variance have been met in this case:

1. The petitioner did not demonstrate that there is a practical difficulty existing that is different from those in the zoning and area in which they reside.

2. The petitioner did not demonstrate exceptional or extraordinary circumstances or conditions that apply to the property involved.

3. The variances are not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zoning or vicinity.

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

Mr. Michael Humbert commented that if he put a pool in his backyard, he would have to put up a 6-foot fence. This is a money issue.

7. **COMMUNICATIONS**

Trustee Flood commented on the activity of the Fencing Ad-Hoc Committee.

8. **COMMITTEE REPORTS**

9. **MEMBER COMMENTS**

Board member Walker urged residents to fill out the form to get this issue on the Township Board agenda.

Trustee Flood stated that it was one year ago in July 2021 when they held a joint meeting to address this problem. They wanted a six-month moratorium on new fences to get this resolved and they were denied.

Board member Dunaskiss commented that these requests are coming in more frequently, but they are bound by the rules too. This is a bigger problem, and she hopes that they address it.

Vice-chairman Cook commented that they do not change the rules. They have a set of parameters and they are consistent. They also go out and look at the properties. There are things going on the end of the Township and they need to do something to force their hand.

Chairman Durham thanked the Board for their support. The Board uses good judgement. Residents need to understand that the Board is bound by rules, things they must do and things that they look at in a certain way. He explained the Board’s role in the Township. The situation is only going to be changed by some different rules. As a group, they can speak louder than as an individual. The Board does the best job they can.

Board member Dunaskiss concurred with Chairman Durham. This area of Waldon Road has a great need. They should come together as a group and work together with other agencies to bring about positive change.

10. **ADJOURNMENT**

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 9:17 pm.

Motion Carried (5-0)

Respectfully submitted,

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

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

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

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

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

CONTACT PERSON FOR THIS REQUEST
Name: Adam Martin Phone: (248) 875-6007 Email: adam.martin@premierav.net

SUBJECT PROPERTY
Address: 2936 Satrun Dr. Lake Orion, MI 48360 Sidwell Number: 09-20-453-024
Total Acreage: 0.32 Length of Ownership by Current Property Owner: 14 Years, 1 Months

Does the owner have control over any properties adjoining this site? No
Zoning Ordinance Allowance/Requirement 4' Fence
Deviation requested 6' Fence
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.

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

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

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

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

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

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

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

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

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

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

N/A

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

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

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

9. Is this request the result of a Notice of Ordinance Violation?  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: 06-21-2022
Print Name: Adam W. Martin

Signature of Property Owner: ________________________ Date: 06-21-2022
Print Name: Adam W. Martin

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

OFFICE USE ONLY

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

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

Description of variance(s):

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

Date Filed: ________________ Fee Paid: ________________ Receipt Number: ________________
KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06-01-2022

KHA-Architectural Control Committee

Proposal submitted by:

Name: Adam W. Martin
Address: 2936 Saturn Dr. Lake Orion MI 48360
Phone: (248) 875 - 6007

Proposal:

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

Action of Committee:

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

Explanation of Action:

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

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

For a Better Community
KHA-Architectural Control Committee

By:

KHA ACC Chairperson
Article XXVII  General Provisions

27.05 Landscaping, Fences and Walls

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

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

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

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

H. Residential Fence and Wall Regulations.

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

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

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

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

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

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

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

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

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

General Provisions

27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses

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

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

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

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

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

5. Detached accessory buildings or structures in non-residential districts shall conform to the height
requirements for the principal building or structure, as set forth in the applicable zoning district, except as
specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in
non-residential districts that exceed the height of the principal building or structure, as constructed, shall not
be located in the front yard. (amended 07.16.18)

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

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

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

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

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

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

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

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: December 1, 2022

SUBJECT: Staff Report for AB-2022-31, Ken Backus, 2911 Walmsley Circle

The applicant is proposing to add a 6-ft. fence along portions of his property. The case was originally presented at the August 8, 2022 ZBA meeting and was postponed to the October 10, 2022 meeting. It was then postponed to this meeting as ZBA 2023 meeting dates had not yet been approved.

The minutes indicate that the applicants with related requests within this subdivision where waiting to see if their HOA was going to address the 6-ft. fence issues within the community. To date, this department has not received any information from the HOA or the applicants to that affect.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: August 1, 2022


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

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

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

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

If you have any questions regarding the case, please give me a call at the Township ext. 5001.
SAMPLE MOTION FOR
APPROVAL OF A NON-USE VARIANCE

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

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

Please be specific how the petitioner meets these criteria

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

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

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

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

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

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

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

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

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

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

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

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

5. Or, In any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, October 10, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 10, 2022, at 7:02 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board member
Joann Van Tassel, Alternate Board member

ZBA MEMBERS ABSENT:
Tony Kerby, Alternate Board member
Tony Cook, Vice-Chairman

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Mike Riddle
Pete Smilanic
Nancy Smilanic
Mat Dunaskiss
Adam Martin

1. OPEN MEETING
Chairman Durham called the meeting to order at 7:02 pm.

2. ROLL CALL

3. MINUTES

A. 09-26-22, ZBA Regular Meeting Minutes

Trustee Flood moved, seconded by Board member Dunaskiss, to approve the 09-26-2022 minutes as presented.

Roll Call Vote was as follows: Dunaskiss, yes; Walker, yes; Flood, yes; Durham; yes. Motion passes 4-0.

4. AGENDA REVIEW AND APPROVAL.

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

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

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

Board member Walker moved, supported by Chairman Durham, to recuse Board member Dunaskiss from Case AB-2022-36 due to Board member Dunaskiss’ request.

Roll Call Vote was as follows: Van Tassel, yes; Flood, yes; Walker, yes; Durham, yes. Motion passes 4-0.

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3
1. A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a deck 19.75-ft. from the front property line (lakeside).
2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.).
3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north)
4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south).
5. Revised A 1.63-ft. height variance from the required 30-ft. to build a house 31.63-ft. high.
6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.
7. An 8-ft. side yard setback variance for retaining walls to be 0 ft. from the property lines north and south

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

Pete and Nancy Smilanic introduced themselves and Mike Riddle with Rison Construction, introduced himself.

Chairman Durham pointed out revisions to the plan that make it more compatible with the Township’s Zoning Ordinance.

Board member Walker asked about the Fire Marshal’s review. He asked if the letter from September 21st was the last review letter. He understands that the petitioners have been back and forth with changes but he questions the recommendation made by the Fire Marshal and if it was made when the request was 10 feet.

Board member Van Tassel stated that the zoning ordinance has more authority over what is allowed than Building Codes. The request should be viewed based on what the zoning ordinance says and she pointed out that the height was reduced which was the Fire Marshal’s concern.

Trustee Flood concurred.

Board member Van Tassel stated that there is an elevator on the south side but there is no indication that there are elevator doors.

Mr. Smilanic explained the location of the elevator doors.

Board member Van Tassel asked about the interior of the home.

Mr. Smilanic explained the interior design of the home using the displayed plan.
Board member Van Tassel asked if there were stairs on the exterior that lead from every level.

Mr. Smilanic replied yes. He pointed out the stairs using the displayed plan.

Board member Van Tassel asked if there was public water at the site.

Mr. Smilanic replied no.

Board member Van Tassel asked about the water source.

Mr. Smilanic replied that they have a sewer and a well.

Board member Van Tassel asked if the petitioner had thought about having a sprinkler system.

Mr. Smilanic replied that each floor is constructed out of concrete. He explained the construction of the home. He doesn’t think that he has a need for a sprinkler system because of the structural elements.

Board member Van Tassel commented on the other parts of the home like the mechanical room.

Trustee Flood stated that he talked to the Fire Marshal prior to the height adjustment that the petitioner made. He appreciates the fact that the petitioner reduced the height, reducing it from 40 feet to 31 feet. The practical difficulty is the elevation of the property and this was a concern of the Fire Marshal. There will be living quarters above the garage and the Fire Marshal was concerned because if for some reason the Fire Department could not access a fire from the front, they would have to put a ladder up on the rear of the house and this is where the severe drop in elevation is. This is why the 30 foot height is in the ordinance. There are stairs on the outside of both sides which will provide access as well. The Fire Department measures height a different way than Zoning Ordinance #78 does. This variance is based on Ordinance #78 criteria. He would not have been in favor of going 40 feet high and he appreciates the drop in height.

Mr. Smilanic stated that this was a good recommendation that they knew they needed to follow.

Chairman Durham commented on the letter from the Fire Marshal who still has some concerns about the variance. The International Fire Code seems to be in conflict with the local ordinance. He wishes that there could have been an agreement reached where all parties were in agreement although the Fire Marshal is much happier with the reduction in height.

Mr. Riddle stated that they worked over the last several months trying to bring the home as close to the ordinance as they could. This home’s entire back patio is flat, solid concrete and it is stable. They are also areas all of the way around the home that have stable areas to locate a ladder. He knows that there is still some concerns, but they tried to get as close as possible and based on the fire rating and working around the perimeter, this home is a lot better than other homes.

Chairman Durham asked if they heard the words “area of refuge”.

Mr. Riddle answered yes.

Chairman Durham explained “area of refuge” as it relates to fire fighting.

Mr. Smilanic pointed out the “area of refuge” using the displayed home plans.

Chairman Durham commented that he is happy to see and hear this.

Building Official Goodloe stated that the International Fire Code governs the Fire Access. The structure itself is governed by the Michigan Residential Code which only requires one main egress door for a home otherwise each bedroom has to have egress windows for sleeping areas. He would like to know where the egress windows are for the upper two levels since the main level has a front door. The issue was the road
because they are having several structures put on this road and the road is not able to carry a fire truck with an apparatus to get to the top of a 49 foot building. This was the Fire Marshal’s main concern.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, seconded by Board member Walker, in the matter of ZBA Case, AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 2 parcels south of 576 Cushing St., 09-03-278-027 that the petitioners’ request for 8 variances from Zoning Ordinance #78 – Zoned R-3, including Article VI, Section 6.04, Zoned R-3 for 1.) A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a deck 19.75-ft. from the front property line (lakeside); 2.) A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.); 3.) A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north); 4.) A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south); 5.) A 1.63-ft. height variance from the required 30-ft. to build a house 31.63-ft. high; 6.) 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%; 7.) An 8-ft. side yard setback variance for retaining walls to be 0 ft. from the property lines north and south and from Article XXVII, Section 27.17 (B), an 5.25-ft. wetlands setback variance from the required 25 feet to build a house with a deck 19.75 feet from a wetland lake be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioners showed the following practical difficulty: mainly due to the unique characteristics of this property which severely goes down from Cushing Street to the lake. The petitioner is trying to build a house that would be compatible on this property which is a permitted use for this property. There were several meetings and compromises back and forth between the petitioner and the consultants in this case to try to work it out. Most of the variances have been reduced from the original filing due to these meetings and conversations between the parties.

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: this lake lot is very difficult as it relates to its elevation, also, street access is limited to all of the houses on the street.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: this is similar to a lot of lake lots in the Township – needing side yard setback variances so that a permitted use such as a house, would fit properly in the area.

4. Granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located; the letter from the Fire Marshal dated 9/21/22, which they approved with comments, should be a part of this motion and made part of the record.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. By building this type of structure with a two-story garage giving relief the road - it would keep cars off of the street. There is also not going to be an increase of fire, or endanger public safety - referring to the Fire Marshal’s letter dated 9/21/22 which approved with comments. Granting of the variances will not reasonably diminish or impair established property values within the surrounding areas, it will in fact improve property values, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Van Tassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 4-0.
Board member Dunaskiss re-joined the Board members.

B. **AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024** (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner's request as follows:

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

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

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

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

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

Mr. Adam Martin introduced himself and summarized the variance request. He requested a postponement until the end of February 2023 to give them a chance to speak to the HOA and see what other options are available.

Building Official Goodloe stated that the dates are not set yet for 2023 until they are voted on in December 2022 and suggested that they move the petitioner to a date that is known.

Mr. Martin stated that with the holiday season, he doesn't think a lot of movement will happen with the HOA.

Chairman Durham stated that the Board cannot give the petitioner a date, but will take note that he would like a date in 2023.

Mr. Martin stated that he is flexible on when he comes back. He stated that they might be able to find an option so they would not need a variance and they would be able to cancel.

Board member Walker asked if there was anything in the by-laws that would allow the petitioner to come back.

Building Official Goodloe stated that if they do not have a date certain, the Township will charge the re-advertise fee. He suggested that the petitioner take the date of November 28, 2023. The Board could possibly set the 2023 dates at that meeting.

Board member Van Tassel asked about the rear setback variance request.

Mr. Martin stated that they have a practical difficulty because their property borders both Saturn Drive and Waldon Road so he is forced to observe two front yards.

Board member Van Tassel asked about the application asking for a 6 foot fence along the back of the property, not along the fence. She asked what the petitioner is seeking.

Board member Dunaskiss stated that the petitioner is erecting the fence along the rear of the property but it will extend 10 feet on each side so it goes to the property line.

Board member Van Tassel stated that the rear property line does not stop 10 feet from the side, it goes the entire way.

Board member Dunaskiss stated that if he was building a 4 foot fence, he could take it all of the way to the sides but since he is building a 6 foot fence, he would need to stop it 10 feet from each side.
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Trustee Flood stated that this is the way the ordinance is written and interpreted.

Building Official Goodloe stated that the last meeting in 2022 is December 12th.

Board member Dunaskiss moved, seconded by Chairman Durham, that in the matter of ZBA Case AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024 that per the petitioner’s request, this matter be postponed until the meeting on December 12, 2022. At that time, there might be a request to postpone to a date certain but the Board does not have established meeting dates for 2023 yet.

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

C. AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner’s request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. 00A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Backus introduced himself and stated that he was there in support of the others on the agenda asking for variances for a fence.

Chairman Durham asked if anything had changed since the petitioner was here before.

Mr. Backus replied no. He has a lot of people that cut through his yard. He is the last house at the canal and his property is ideal to cut through from Waldon to Walmsley Circle. He would like to stop this. Since he has built the house, there have been a lot of changes that have created a lot of noise along Waldon Road and he explained. This fence would help block this noise. He has had things stolen from his yard too and he would like to have a nicer fence like they put up along Baldwin Road.

Chairman Durham asked if his property has the entire area cut back and has arborvitae planted.

Mr. Backus replied no. He has let all of the brush grow up. He is aware that he can have a 4 foot fence without a variance but feels that a 6 foot fence would be a lot better to address his concerns. He doesn’t like the idea of having all different types of fences.

Board member Van Tassel stated that the aerial photograph indicates that 35 feet of the property is parallel with Waldon Road. There is also a piece of the property that is at an angle to that which is about 60 feet which he is not asking for any fencing for. If the petitioner’s concern is for people cutting through, this 60 feet would still be open allowing that.

Mr. Backus stated that he doesn’t hear very well and doesn’t understand what she is saying.

Board members and Mr. Backus discussed the property lines of the subject lot.
Board member Van Tassel stated that wood is a hard surface that sound will bounce off of. She suggested that they plant arborvitae along the property line which will absorb the sound. They will grow and will do a good job of absorbing noise.

Trustee Flood stated that this is a Homeowner’s Association concern because they are replacing an original split rail fence that was along the roadway. The 4 foot shadowbox fence will solve the problem. The HOA should take care of this for the residents. There was a site plan made up for this development.

Board member Walker stated that the case right before Mr. Backus postponed his case so they will have time to come up with a solution. Mr. Backus has the right to postpone or the Board can vote on this case.

Building Official Goodloe stated that the Fence Committee is looking to address the two front yard issue.

Chairman Durham stated that it is going to take change by the HOA to correct this problem.

Mr. Backus indicated that he would like to postpone his case to December 12, 2022.

**Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 that per the petitioner’s request, this matter be postponed until the meeting on December 12, 2022.**

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

**D. AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 (postponed from 8/8/2022 meeting)**

Chairman Durham read the petitioner’s request as follows:

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

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

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

No petitioner was present.

**Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 that this matter be postponed until the meeting on December 12, 2022 due to the fact that the petitioner was not present.**

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

6. **PUBLIC COMMENTS**

7. **COMMUNICATIONS**

8. **COMMITTEE REPORTS**
9. MEMBER COMMENTS

Board member Van Tassiel commented on the postponing of the last case and the variances requested during this meeting.

Board members and Building Official Goodloe discussed the rear property line fence variance request and offered historical comments regarding variances in the Township.

Chairman Durham and Board member Walker commented on the legal opinion that was offered for the first case and as to the Board acting “slight and capricious.”

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 8:23 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 8, 2022, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS ABSENT:
None

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Ted Adams
Christi Adams
Adam Martin
Lori Martin
Kenneth Backus
Mike Humbert
Catherine Bako
Kris Baker

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

2. ROLL CALL

3. MINUTES

A. 07-25-22, ZBA Regular Meeting Minutes

Board member Dunaskiss moved, seconded by Chairman Durham, to approve the 07-25-2022 minutes as presented.

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

4. AGENDA REVIEW AND APPROVAL.

Trustee Flood moved, seconded by Chairman Durham, to approve the agenda as presented.

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

5. ZBA BUSINESS

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78 – Zoned R-2
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Article XXVII, Section 27.17(B)
4. A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland.

Mr. Ted Adams and Christi Adams introduced themselves.

Chairman Durham stated that the Fire Department has no concerns with any of the cases on the agenda for tonight’s meeting. The Board received two letters. The first was from Mark Tarquini, 2823 Waring Place, Director of Keatington Homeowner’s Association, in support for the 6-foot height variance and the setback variances requested for the properties along Waldon Road and Chairman Durham listed all property addresses that the letter supports. The second letter was received from a neighbor expressing concerns and comments regarding the request for height and setback variances for fences along Waldon Road.

Mr. Adams summarized the variance request. They would like the 6-foot fence because of privacy and safety concerns.

Ms. Adams stated that when they purchased the home, they were told that a 6-foot fence was being paid for and put up by the Homeowner’s Association but after they moved it, they found out that this was false information. She explained what they have done up to this point to alleviate their concerns. They tried putting up a wood wall, but this was not effective. They also planted vegetation and the trees did not thrive and were not effective. When they heard about the fences that were placed on Baldwin Road, they thought this was their opportunity.

Chairman Durham asked if the traffic on Waldon Road has increased since they purchased the home.

Mr. Adams and Ms. Adams replied that it has definitely gotten busier, both traffic and pedestrian.

Ms. Adams expressed concerns over motorist stopping and trespassing on her property. People that walk along the path can see right into their home and a 4-foot fence could simply be looked over and would not provide privacy.

Chairman Durham asked how 2 more feet would help.

Ms. Adams replied that it would deter someone from hopping over the fence. If someone wanted to remove something from their property, it would be harder to take it over a 6-foot fence. When they have a 6-foot fence, it is more difficult to see a passing walker on the path.

Chairman Durham stated that he is concerned about a fence going into a wetland setback.

Mr. and Mrs. Adams explained that they have had individuals park and go onto their property to fish.
Trustee Flood asked if she had called the police.

Ms. Adams explained that she was afraid of repercussions.

Trustee Flood explained that the petitioner was actually asking for a site plan change because they are asking to replace a split rail fence that was part of the original site plan approval. He stated that they have a problem with 6 feet fences in the township. He thinks this is a Homeowner's Association problem.

Ms. Adams stated that there is a lot more truck traffic on the road now.

Trustee Flood commented on traffic problems on Baldwin Road. He reiterated that this is a Homeowner's Association problem because they are changing the site plan for the development. He thinks this should be worked out through planning and zoning.

Ms. Adams commented that they had listened to other meetings as to the fact that each was a case-by-case basis and she understood that this was the meeting that they should attend. She stated that for them to pay the money and then you say that they should go to the Homeowners Association, this does not seem fair.

Trustee Flood stated that he will base his decision on the practical difficulty. He believes that a 4-foot fence will suffice, and he explained.

Ms. Adams stated that the view is fine now, it is worse during the winter months.

Trustee Flood asked if the petitioner had informed the Homeowner's Association about what is going on.

Ms. Adams stated that if someone comes down Waldon and enters the ice, they are supposed to call the Homeowner's Association.

Trustee Flood commented on beach access in the area. He is not in favor of any 6-foot fence in the Township.

Chairman Durham asked for public comment.

Mark Rossi stated that he was the first one that was approved for a fence on Waldon Road. This petitioner’s case is amplified because of their proximity to the lagoon. The security issue is huge. He commented in the changes in the Township over the years. This petitioner is worse than his case because they have constant traffic, sound, etc. The quality of life that is affected by the changes in the Township affect them more drastically. The four-foot fence will not suffice, and a 6-foot fence is more secure and he commented on the visual aspect of having a barrier. His quality of life has increased since he was able to put up the fence.

Ms. Adams stated that they are willing to work with the Township if there is a setback issue. There isn't anything they can do about the water’s edge.

Mr. Adams commented on the large tree on his property and explained that he would like the fence to go on the side of the tree.

Chairman Durham asked if they have considered greenery.
Ms. Adams commented that they had planted 14 evergreens and 3 lived.

Chairman Durham asked if the trees withholding the sun belong to the petitioner.

Mr. Adams and Ms. Adams stated that they do not know.

Trustee Flood stated that it would depend on the road right of way on Waldon Road.

Board member Walker stated that they can have a 6-foot fence if they move it in.

Ms. Adams stated that they asked for the setbacks so the neighbor’s fences and their fence would touch without a 10-foot gap. They understand that they can put a 6-foot fence 35 foot from Waldon Road, but they did not want to lose 35 feet.

Mr. Adams stated that that would probably be within their beach.

Board member Walker stated that he voted for Mr. Rossi’s fence but that was the last one. The problem is, they need a practical difficulty that goes with the land. He understands the changes that the Township has experienced but they would have to have to find practical difficulty with every case. He thinks this is the wrong solution. The right solution is to change the ordinance. He also is concerned with the wetland issue. They are asking for a variance against the wetland’s ordinance.

Ms. Adams stated that there is a split rail fence, and they want to put the 6-foot fence in the same location.

Chairman Durham asked Building Official Goodloe about the need to find practical difficulty with each case.

Building Official Goodloe stated that they are looking for unique circumstances that apply to the property.

Ms. Adams explained her concerns about someone drowning on her property and not being able to do anything about it.

Chairman Durham stated that how does the petitioner know where the people coming into their property are coming from.

Ms. Adams replied that they visually see the majority of them coming from Waldon Road.

Board member Dunaskiss asked if a berm could be built on the property line.

Building Official Goodloe replied yes, as long as it does not affect property drainage to adjacent properties.

Board member Dunaskiss asked if they could build a berm and put the 4-foot fence on top of the berm.

Building Official Goodloe answered yes.
Board member Dunaskiss stated that she shares the concern about the 6-foot fences. It is not the kind of look that is attractive in a community. She shares some of the same concerns with Trustee Flood. There are many trees on the property that are mature and not necessarily healthy and a lot of overgrowth preventing new greenery from being healthy. There is no point to keeping split rail fence. She suggested putting up a berm and putting a 4-foot fence on top and they could make it attractive. It would be safe and would help with visibility. She feels that this is a concern for the Homeowner's Association, and they should share the burden. She asked if they could look at other alternatives and work with the Association to come up with a plan.

Ms. Adams stated that she can investigate this. Her practical difficulty is worse than Mr. Rossi. The Board is telling them one standard and then they are changing the meaning of practical difficulty.

Chairman Durham stated that they are looked at on a case-by-case basis. The former cases are approved. Each case should be looked at separately. He commented on the availability of coming on the property prior to tonight's meeting and how that might not be possible with a stockade fence.

Board member Dunaskiss asked if a 4-foot fence would keep the people out of the wetland area.

Ms. Adams replied no.

Mr. Adams commented on what it would look like if he put up a berm and a 4-foot fence and the neighbors put up something different. In his opinion, this would not be appealing at all.

Building Official Goodloe stated that when you are dealing with dimensional variances, he read from a document from MSU. He stated that this document says, "if the circumstances upon which a variance is warranted is shared among numerous properties in the same zone, the variance request should be denied." It is because it is not particular to that property. If they held the problem of noise to a standard, then everyone could qualify for a variance. This is a bigger issue for the subdivision. When the ZBA grants a variance, it stays with the property. Dogs and disputing neighbors are not a practical difficulty. If it what is being asked for is shared among all the neighbors along Waldon Road, it is not particular to one specific property.

Vice-chairman Cook stated that he is not a fan of 6-foot fences at all. He is trying to come up with a practical difficulty. After he heard what Building Official Goodloe read, it is a commonality among neighbors. When you add the wetland issue, there is a reason why we have a wetland ordinance. He is trying to find a reason why this is unique and is not able to.

Mr. Adams stated that they are the only one along Waldon Road that someone can walk on the property and drown.

Chairman Durham stated that this is a blanket request from several residents. Mr. Adams brought up the issue of being on the water. He suggested that anyone looking to get an ordinance change can make a presentation to the Township Board.

Trustee Flood stated that right now they have a committee that is supposed to be addressing this problem.

Building Official Goodloe stated that anyone can apply at the Clerk's Office to amend an ordinance. There is an application for that.
Ms. Adams asked who decides how that happens.

Trustee Flood replied the Township Board.

Chairman Durham explained the options to the petitioners.

Mr. Adams stated that he is okay coming back 5 feet, but he cannot do that at the water’s edge.

Chairman Durham stated that this would require them to ask to be postponed and come back to the Board with different measurements and drawing and try again.

Building Official Goodloe stated that they could request a lesser variance.

Chairman Durham commented that they would not be able to provide hard numbers at tonight’s meeting in moving the fence 5 feet.

Board member Walker stated that if the petitioner agrees to move their fence in and the neighbors did not agree to move their fence in, the fences will not line up. They have to think about what it would look like overall.

Building Official Goodloe stated that this is exactly why this is not unique to this property, it also involves the neighbors.

Trustee Flood stated that tomorrow, the petitioners could put a 4-foot line all the way down their property line along Waldon Road and it would be perfectly legal. It is the homeowner’s choice.

Building Official Goodloe stated that he would have to review the wetland area because this is different.

Trustee Flood stated that the Township already has one there. If someone climbs over the fence, that is their fault.

Board member Walker commented that he did not know a resident could fill out a form to change the ordinance, he has never heard of that.

Trustee Flood stated that for anything to be put on a Township Board Agenda, it must be approved.

Board member Walker asked if this item has come before the Board before.

Building Official Goodloe commented on another ordinance amendment that went before the Board.

Trustee Flood stated that they are working to get the Committee back together to get this resolved. The way the ordinance is set up now, if they have two front yards, it is 35 feet setback for this case. The Homeowner’s Association needs to address this. If they get denied, they have recourse to go to Oakland County Circuit Court.

Chairman Durham asked for additional public comment.
Mr. Ken Backus commented on his history of living in the Township. He lives across the canal from the petitioner. He is in favor of the things that the petitioner has presented. He commented on the big trucks that unload at Kroger and that could be a reason for a 6-foot fence. If he had a taller fence, which would reduce the sound being heard. He suggested that if they survey random residents in a one-mile radius and ask them about the attractiveness of the fences on Baldwin as compared to the fences along Waldon Road. He believes the fences on Baldwin Road are much more attractive.

Mr. Adam Martin, neighbor, pointed out that the petitioner has an attractive nuisance. People that drive down the road and they see access to the water. The unique detriment that the petitioner has is that it is so easy and inviting for individuals to feel that they have access to that space. It is not known that this is personal property, so people assume that it is public property. Out of all the fence cases, theirs is the most unique.

Ms. Adams stated that they cannot put a berm along the wetlands because it would be an EGLE issue.

Chairman Durham asked for final comments.

Mr. Adams asked for a vote on what was presented.

Ms. Adams stated that their unique hardship is people are able to come onto their property and access the water.

Board member Walker moved, and Vice-chairman Cook supported, in the matter of ZBA Case AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023 that the petitioner’s request for variances from Article XXVI, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.; a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east; a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west, and a variance from Article XXVII, Section 27.17(B) for a 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland be denied because the petitioner did not demonstrate that the following standards for variances have been met:

The petitioner did not demonstrate practical difficulty in that from the discussions we had with the petitioner, these concerns that the petitioner has does not run, with the possible exception of the water issue. The issues of noise, too many people and trespassing are issues that are known everywhere and all of these things apply to all residents of the Township. It is not practical difficulty due to ownership of that particular property.

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

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-2.
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Martin introduced himself and summarized the variance request. He would like to postpone his case so he could come up with a practical difficulty.

Trustee Flood moved, and Chairman Durham supported, at the applicant’s request to postpone ZBA Case AB-2022-30, Adam Martin, 2936 Saturn Drive, 09-20-453-024, to October 10, 2022.

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

Mr. Pat Kaputo stated that he has vegetation along his property and commented that this vegetation is very difficult to maintain. The practical difficulty argument makes no sense, and it makes perfect sense for these residents. It is only a very small percentage of residents of Orion Township who live along Waldon Road. He commented on the increased traffic in the area, the shopping center that was not there when they moved in, the roundabout, and the church. He commented on the weeds along the safety path. He commented on other neighbors that have come before the Board for a fence. The Board doesn't understand how this affects these neighbors’ everyday lives. The Township needs to take care of things in a timely manner.

Chairman Durham stated that practical difficulty is part of the Enabling Legislation.

Mr. Kaputo answered that he is aware, but he questioned the definition of it that the Board is using. He commented on the garbage behind Kroger. He urged the Board to listen to the petitioners.

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Ken Backus introduced himself.

Chairman Durham explained the options for the petitioner.

Trustee Flood asked if the Homeowner’s Association will address this. The fences are the Association’s boundary lines and are the Homeowners Association’s problem.
Board member Dunaskiss moved, and Trustee Flood supported, in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013 that this request, at the petitioner's request, be postponed until October 10, 2022.

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

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

Chairman Durham read the petitioner's request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Mike Humbert introduced himself to the Board and asked for postponement of his case.

Trustee Flood moved, and Board member Dunaskiss supported, in the matter of ZBA Case AB-2022-32, B-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012 at the applicant's request to postpone this case until October 10, 2022.

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

Chairman Durham urged petitioners that were postponed at tonight's meeting, come back to the next meeting with some new information. They can contact the Township, Building Department and he asked them to use the time they were given to research new information.

Building Official Goodloe stated that he would gladly meet with any of the petitioners to look for their practical difficulty.

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

Chairman Durham read the petitioner's request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.
Ms. Catherine Baker introduced herself and her son to the Board. She provided pictures to the Board. She stated that a lot of her concerns involve privacy so anyone can see into their yard. A 4-foot fence doesn’t work. She likes the idea of vegetation, but it is a lot to keep up and things die off. She described the existing vegetation in her yard and the road right of way. She described safety concerns and privacy concerns that she has for her property. She doesn’t understand why the fence is such an issue.

Chairman Durham stated that the 6-foot fence is prohibited by ordinance.

Trustee Flood stated that they can put up a 6-foot fence, 35 feet off the lot line.

Ms. Baker replied that they wouldn’t have any back yard left.

Mr. Baker stated that this is why they are asking for the variance.

Trustee Flood stated that this is why the ordinance needs to be addressed.

Mr. Baker stated that the Board has the power to approve the variance so therefore, they are trying to push it on someone else.

Chairman Durham asked for public comment.

Mr. Rossi stated that the rules have changed since he was approved. They have people that have received approval along Baldwin Road and now everything has changed on how the Board is looking at it. He suggested that the Board work on what they want from the Homeowner’s Association so that they can present it to the President and try to get it done. The Association is not concerned with the perimeter of the property that involves a small percentage of people in the development.

Trustee Flood asked if they should contact Building Official Goodloe.

Building Official Goodloe stated that they should talk to Tammy Girling, Planning and Zoning Director, to find out if it was a PUD or a site plan for this development. They need to find out if the development would consider putting a fence around the perimeter.

Trustee Flood commented that hopefully they can work this out without getting lawyers involved.

Ms. Adams stated that she watched the videos of the people who got approved for the fences. Vice-chairman Cook suggested that they get a group together for conformity. She surveyed the group and got the neighbors together and now she feels responsible for all the monies spent. She felt that they were doing what they were supposed to do and now they are telling them to do something different. Something should have been said before all the time and money was wasted.

Ms. Baker explained how she decided to go to the Board for a variance. She reiterated her concerns about safety and privacy.

Building Official Goodloe stated that having two front yards can be considered a practical difficulty. He stated that 10 foot is the minimum setback off a regular rear yard. He suggested she think about this and the topography of the yard when appealing to this Board. He suggested that they look for a compromise.

Ms. Baker explained her property difficulties.

Building Official Goodloe suggested that the petitioner put this all together and come back. None of the practical difficulties were on the application. He suggested that the petitioner look at the uniqueness of their properties.
Building Official Goodloe suggested that the applicants read the minutes from the meetings where the fences were approved. This Board can only look at what they are presented in the application and what they are presenting here. The Board can only vote on what goes with the land.

Chairman Durham explained the options to the applicant.

Ms. Baker explained all the effort that she has put in so far. She does not want to postpone.

Vice-chairman Cook asked what she has done in terms of planting vegetation.

Ms. Baker stated that she planted 10 of the emeralds and all of them died. She explained the problems with the vegetation in her yard.

Mr. Baker explained that the Black Walnut trees on the other side release a toxin inhibiting other plants to grow so it is impossible to get things to grow on that side.

Trustee Flood asked who owns the road right of way.

Building Official Goodloe replied that he doesn’t know.

Trustee Flood stated that he would like clarification. He believes that it is an Oakland County right of way.

Ms. Baker expressed her concern about the vegetation in the road right of way. She reiterated her privacy and safety concerns. She does not think a 4-foot fence is sufficient.

Chairman Durham asked for public comment.

Mr. Kaputo commented on the vegetation in the area and the pathways in the area. He commented on the neighborhood plan and the visibility of the subject parcel.

Ms. Baker reiterated her safety concerns.

Mr. Baker reiterated why a 4-foot fence would not help with their privacy concerns.

Board member Dunaskiss moved, and Vice-chairman Cook supported, in the matter of ZBA Case AB-2022-33, Catherine Baker, 2933 Walmsley Circle Dr., 09-20-381-004 that the petitioner’s request for 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east and a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west be denied because the petitioner did not demonstrate that the following standards for variance have been met in this case:

1. The petitioner did not demonstrate that there is a practical difficulty existing that is different from those in the zoning and area in which they reside.

2. The petitioner did not demonstrate exceptional or extraordinary circumstances or conditions that apply to the property involved.

3. The variances are not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zoning or vicinity.

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

Mr. Michael Humbert commented that if he put a pool in his backyard, he would have to put up a 6-foot fence. This is a money issue.

7. **COMMUNICATIONS**

Trustee Flood commented on the activity of the Fencing Ad-Hoc Committee.

8. **COMMITTEE REPORTS**

9. **MEMBER COMMENTS**

Board member Walker urged residents to fill out the form to get this issue on the Township Board agenda.

Trustee Flood stated that it was one year ago in July 2021 when they held a joint meeting to address this problem. They wanted a six-month moratorium on new fences to get this resolved and they were denied.

Board member Dunaskiss commented that these requests are coming in more frequently, but they are bound by the rules too. This is a bigger problem, and she hopes that they address it.

Vice-chairman Cook commented that they do not change the rules. They have a set of parameters and they are consistent. They also go out and look at the properties. There are things going on the end of the Township and they need to do something to force their hand.

Chairman Durham thanked the Board for their support. The Board uses good judgement. Residents need to understand that the Board is bound by rules, things they must do and things that they look at in a certain way. He explained the Board’s role in the Township. The situation is only going to be changed by some different rules. As a group, they can speak louder than as an individual. The Board does the best job they can.

Board member Dunaskiss concurred with Chairman Durham. This area of Waldon Road has a great need. They should come together as a group and work together with other agencies to bring about positive change.

10. **ADJOURNMENT**

*Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 9:17 pm.*

*Motion Carried (5-0)*

Respectfully submitted,

Erin A. Mattice
Recording Secretary
Charter Township of Orion Zoning Board of Appeals
Application for Appeal - Single Family Residential

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

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

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

APPLICANT

Name: Ken Backus
Address: 2911 Walmsley Circle Dr. City/State/Zip: Lake Orion, MI 48360
Phone: ___________________________ Cell: 248.464.9912 ___________________________ Fax: ___________________________
Email: bkenback@aol.com

PROPERTY OWNER(S)

Name(s): Ken Backus
Address: 2911 Walmsley Circle Dr. City/State/Zip: Lake Orion, MI 48360
Phone: ___________________________ Cell: 248.464.9912 ___________________________ Fax: ___________________________
Email: bkenback@aol.com

CONTACT PERSON FOR THIS REQUEST

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

SUBJECT PROPERTY

Address: 2911 Walmsley Circle Dr., Lake Orion, MI 48360 Sidwell Number: 09-20-452-013
Total Acreage: .60 Acres Length of Ownership by Current Property Owner: 55 Years, 0 Months
Does the owner have control over any properties adjoining this site? NO
Zoning Ordinance Allowance/Requirement variance for fence to be 0 feet from rear property line Deviation requested 10 feet
Case #: ____________________

**RESIDENTIAL VARIANCE**

1. Describe in detail the nature of the request.

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

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

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

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

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

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

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

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

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

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

   **N/A**

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

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

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

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

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

Signature of Applicant:  
(Must be original ink signature) ________________________________  Date: 06/15/2022

Print Name: Ken Backus

Signature of Property Owner:  
(Must be original ink signature) ________________________________  Date: 06/15/2022

Print Name: Ken Backus

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

OFFICE USE ONLY

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

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

Description of variance(s):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Date Filed: __________________ Fee Paid: __________________ Receipt Number: __________________
Date: 06/01/2022

KHA-Architectural Control Committee
Proposal submitted by:
Name  Ken Backus
Address  2911 Walmsley Circle, Lake Orion, MI 48360
Phone  248.464.9912

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

Action of Committee:
✓ Accept Proposal as Submitted
Accept Proposal with Exceptions as Noted
Proposal Incomplete - Requires Additional Information - See Below
Reject Proposal - Against Township Zoning Regulations - See Below
Reject Proposal - Against Subdivision Deed Restrictions - See Below
Other- See Below

Explanation of Action:
The height is restricted to 48” per the Township Ordinance. The KHA has approved a 6’ shadow box fence if the Township also agrees and approves the variance.

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

For a Better Community
KHA-Architectural Control Committee

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses

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

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

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

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

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

5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

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

27.05 Landscaping, Fences and Walls

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

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

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

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

H. Residential Fence and Wall Regulations.

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

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

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

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

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

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

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

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

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.
The fire department has reviewed the 5 attached cases and has no concerns at this time.

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

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

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: December 1, 2022
SUBJECT: Staff Report for AB-2022-32, Mike Humbert, 2914 Walmsley Circle

The applicant is proposing to add a 6-ft. fence along the property line that borders Waldon Road. The case was originally presented at the August 8, 2022 ZBA meeting and was postponed to the October 10, 2022 meeting. It was then postponed to this meeting as ZBA 2023 meeting dates had not yet been approved.

The minutes indicate that the applicants with related requests within this subdivision where waiting to see if their HOA was going to address the 6-ft. fence issues within the community. To date, this department has not received any information from the HOA or the applicants to that affect.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022

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

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

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

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

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

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

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

Please be specific how the petitioner meets these criteria

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

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

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


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

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

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

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

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

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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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 Minutes
Regular Meeting – October 10, 2022

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, October 10, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 10, 2022, at 7:02 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board member
Joann Van Tassel, Alternate Board member

ZBA MEMBERS ABSENT:
Tony Kerby, Alternate Board member
Tony Cook, Vice-Chairman

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Mike Riddle Pete Smilanic Nancy Smilanic
Mat Dunaskiss Adam Martin

1. OPEN MEETING
Chairman Durham called the meeting to order at 7:02 pm.

2. ROLL CALL

3. MINUTES

A. 09-26-22, ZBA Regular Meeting Minutes

Trustee Flood moved, seconded by Board member Dunaskiss, to approve the 09-26-2022 minutes as presented.

Roll Call Vote was as follows: Dunaskiss, yes; Walker, yes; Flood, yes; Durham; yes. Motion passes 4-0.

4. AGENDA REVIEW AND APPROVAL.

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

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

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

Board member Walker moved, supported by Chairman Durham, to recuse Board member Dunaskiss from Case AB-2022-36 due to Board member Dunaskiss’ request.

Roll Call Vote was as follows: Van Tassel, yes; Flood, yes; Walker, yes; Durham, yes. Motion passes 4-0.

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3
1. A 10.25-ft front yard setback variance from the required 30-ft., to build a house with a deck 19.75-ft. from the front property line (lakeside).
2. A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.).
3. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north)
4. A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south).
5. Revised A 1.63-ft. height variance from the required 30-ft. to build a house 31.63-ft. high.
6. 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%.
7. An 8-ft. side yard setback variance for retaining walls to be 0 ft. from the property lines north and south

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

Pete and Nancy Smilanic introduced themselves and Mike Riddle with Rison Construction, introduced himself.

Chairman Durham pointed out revisions to the plan that make it more compatible with the Township’s Zoning Ordinance.

Board member Walker asked about the Fire Marshal’s review. He asked if the letter from September 21st was the last review letter. He understands that the petitioners have been back and forth with changes but he questions the recommendation made by the Fire Marshal and if it was made when the request was 10 feet.

Board member Van Tassel stated that the zoning ordinance has more authority over what is allowed than Building Codes. The request should be viewed based on what the zoning ordinance says and she pointed out that the height was reduced which was the Fire Marshal’s concern.

Trustee Flood concurred.

Board member Van Tassel stated that there is an elevator on the south side but there is no indication that there are elevator doors.

Mr. Smilanic explained the location of the elevator doors.

Board member Van Tassel asked about the interior of the home.

Mr. Smilanic explained the interior design of the home using the displayed plan.
Board member Van Tassel asked if there were stairs on the exterior that lead from every level.

Mr. Smilanic replied yes. He pointed out the stairs using the displayed plan.

Board member Van Tassel asked if there was public water at the site.

Mr. Smilanic replied no.

Board member Van Tassel asked about the water source.

Mr. Smilanic replied that they have a sewer and a well.

Board member Van Tassel asked if the petitioner had thought about having a sprinkler system.

Mr. Smilanic replied that each floor is constructed out of concrete. He explained the construction of the home. He doesn’t think that he has a need for a sprinkler system because of the structural elements.

Board member Van Tassel commented on the other parts of the home like the mechanical room.

Trustee Flood stated that he talked to the Fire Marshal prior to the height adjustment that the petitioner made. He appreciates the fact that the petitioner reduced the height, reducing it from 40 feet to 31 feet. The practical difficulty is the elevation of the property and this was a concern of the Fire Marshal. There will be living quarters above the garage and the Fire Marshal was concerned because if for some reason the Fire Department could not access a fire from the front, they would have to put a ladder up on the rear of the house and this is where the severe drop in elevation is. This is why the 30 foot height is in the ordinance. There are stairs on the outside of both sides which will provide access as well. The Fire Department measures height a different way than Zoning Ordinance #78 does. This variance is based on Ordinance #78 criteria. He would not have been in favor of going 40 feet high and he appreciates the drop in height.

Mr. Smilanic stated that this was a good recommendation that they knew they needed to follow.

Chairman Durham commented on the letter from the Fire Marshal who still has some concerns about the variance. The International Fire Code seems to be in conflict with the local ordinance. He wishes that there could have been an agreement reached where all parties were in agreement although the Fire Marshal is much happier with the reduction in height.

Mr. Riddle stated that they worked over the last several months trying to bring the home as close to the ordinance as they could. This home’s entire back patio is flat, solid concrete and it is stable. They are also areas all of the way around the home that have stable areas to locate a ladder. He knows that there is still some concerns, but they tried to get as close as possible and based on the fire rating and working around the perimeter, this home is a lot better than other homes.

Chairman Durham asked if they heard the words “area of refuge”.

Mr. Riddle answered yes.

Chairman Durham explained “area of refuge” as it relates to fire fighting.

Mr. Smilanic pointed out the “area of refuge” using the displayed home plans.

Chairman Durham commented that he is happy to see and hear this.

Building Official Goodloe stated that the International Fire Code governs the Fire Access. The structure itself is governed by the Michigan Residential Code which only requires one main egress door for a home otherwise each bedroom has to have egress windows for sleeping areas. He would like to know where the egress windows are for the upper two levels since the main level has a front door. The issue was the road
because they are having several structures put on this road and the road is not able to carry a fire truck with an apparatus to get to the top of a 49 foot building. This was the Fire Marshal’s main concern.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, seconded by Board member Walker, in the matter of ZBA Case, AB-2022-36, Mat Dunaskiss and Pete & Nancy Smilanic, vacant parcel 12 parcels south of 576 Cushing St., 09-03-278-027 that the petitioners’ request for 8 variances from Zoning Ordinance #78 – Zoned R-3, including Article VI, Section 6.04, Zoned R-3 for 1.) A 10.25-ft front yard setback variance from the required 30-ft. to build a house with a deck 19.75-ft. from the front property line (lakeside); 2.) A 17-ft. rear yard setback variance, from the required 35-ft., to build a house 18-ft. from the rear property line (Cushing St.); 3.) A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (north); 4.) A 1-ft. side yard setback variance from the required 8-ft. to build a house 7-ft. from the side property line (south); 5.) A 1.63-ft. height variance from the required 30-ft. to build a house 31.63-ft. high; 6.) 14.85% lot coverage variance from the required 25% for a total lot coverage of 39.85%; 7.) An 8-ft. side yard setback variance for retaining walls to be 0 ft. from the property lines north and south and from Article XXVII, Section 27.17 (B), an 5.25-ft. wetlands setback variance from the required 25 feet to build a house with a deck 19.75 feet from a wetland lake be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioners showed the following practical difficulty: mainly due to the unique characteristics of this property which severely goes down from Cushing Street to the lake. The petitioner is trying to build a house that would be compatible on this property which is a permitted use for this property. There were several meetings and compromises back and forth between the petitioner and the consultants in this case to try to work it out. Most of the variances have been reduced from the original filing due to these meetings and conversations between the parties.

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: this lake lot is very difficult as it relates to its elevation, also, street access is limited to all of the houses on the street.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: this is similar to a lot of lake lots in the Township – needing side yard setback variances so that a permitted use such as a house, would fit properly in the area.

4. Granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located; the letter from the Fire Marshal dated 9/21/22, which they approved with comments, should be a part of this motion and made part of the record.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. By building this type of structure with a two-story garage giving relief the road - it would keep cars off of the street. There is also not going to be an increase of fire, or endanger public safety - referring to the Fire Marshal’s letter dated 9/21/22 which approved with comments. Granting of the variances will not reasonably diminish or impair established property values within the surrounding areas, it will in fact improve property values, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Van Tassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 4-0.
B. AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024 (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Adam Martin introduced himself and summarized the variance request. He requested a postponement until the end of February 2023 to give them a chance to speak to the HOA and see what other options are available.

Building Official Goodloe stated that the dates are not set yet for 2023 until they are voted on in December 2022 and suggested that they move the petitioner to a date that is known.

Mr. Martin stated that with the holiday season, he doesn’t think a lot of movement will happen with the HOA.

Chairman Durham stated that the Board cannot give the petitioner a date, but will take note that he would like a date in 2023.

Mr. Martin stated that he is flexible on when he comes back. He stated that they might be able to find an option so they would not need a variance and they would be able to cancel.

Board member Walker asked if there was anything in the by-laws that would allow the petitioner to come back.

Building Official Goodloe stated that if they do not have a date certain, the Township will charge the re-advertise fee. He suggested that the petitioner take the date of November 28, 2023. The Board could possibly set the 2023 dates at that meeting.

Board member Van Tassel asked about the rear setback variance request.

Mr. Martin stated that they have a practical difficulty because their property borders both Saturn Drive and Waldon Road so he is forced to observe two front yards.

Board member Van Tassel asked about the application asking for a 6 foot fence along the back of the property, not along the fence. She asked what the petitioner is seeking.

Board member Dunaskiss stated that the petitioner is erecting the fence along the rear of the property but it will extend 10 feet on each side so it goes to the property line.

Board member Van Tassel stated that the rear property line does not stop 10 feet from the side, it goes the entire way.

Board member Dunaskiss stated that if he was building a 4 foot fence, he could take it all of the way to the sides but since he is building a 6 foot fence, he would need to stop it 10 feet from each side.
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Trustee Flood stated that this is the way the ordinance is written and interpreted.

Building Official Goodloe stated that the last meeting in 2022 is December 12th.

Board member Dunaskiss moved, seconded by Chairman Durham, that in the matter of ZBA Case AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024 that per the petitioner’s request, this matter be postponed until the meeting on December 12, 2022. At that time, there might be a request to postpone to a date certain but the Board does not have established meeting dates for 2023 yet.

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

C. AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner’s request as follows:

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

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

1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. 00A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Backus introduced himself and stated that he was there in support of the others on the agenda asking for variances for a fence.

Chairman Durham asked if anything had changed since the petitioner was here before.

Mr. Backus replied no. He has a lot of people that cut through his yard. He is the last house at the canal and his property is ideal to cut through from Waldon to Walmsley Circle. He would like to stop this. Since he has built the house, there have been a lot of changes that have created a lot of noise along Waldon Road and he explained. This fence would help block this noise. He has had things stolen from his yard too and he would like to have a nicer fence like they put up along Baldwin Road.

Chairman Durham asked if his property has the entire area cut back and has arborvitae planted.

Mr. Backus replied no. He has let all of the brush grow up. He is aware that he can have a 4 foot fence without a variance but feels that a 6 foot fence would be a lot better to address his concerns. He doesn’t like the idea of having all different types of fences.

Board member Van Tassel stated that the aerial photograph indicates that 35 feet of the property is parallel with Waldon Road. There is also a piece of the property that is at an angle to that which is about 60 feet which he is not asking for any fencing for. If the petitioner’s concern is for people cutting through, this 60 feet would still be open allowing that.

Mr. Backus stated that he doesn’t hear very well and doesn’t understand what she is saying.

Board members and Mr. Backus discussed the property lines of the subject lot.
Board member Van Tassel stated that wood is a hard surface that sound will bounce off of. She suggested that they plant arborvitae along the property line which will absorb the sound. They will grow and will do a good job of absorbing noise.

Trustee Flood stated that this is a Homeowner’s Association concern because they are replacing an original split rail fence that was along the roadway. The 4 foot shadowbox fence will solve the problem. The HOA should take care of this for the residents. There was a site plan made up for this development.

Board member Walker stated that the case right before Mr. Backus postponed his case so they will have time to come up with a solution. Mr. Backus has the right to postpone or the Board can vote on this case.

Building Official Goodloe stated that the Fence Committee is looking to address the two front yard issue.

Chairman Durham stated that it is going to take change by the HOA to correct this problem.

Mr. Backus indicated that he would like to postpone his case to December 12, 2022.

Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 that per the petitioner’s request, this matter be postponed until the meeting on December 12, 2022.

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

D. AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 (postponed from 8/8/2022 meeting)

Chairman Durham read the petitioner’s request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

No petitioner was present.

Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 that this matter be postponed until the meeting on December 12, 2022 due to the fact that the petitioner was not present.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

8. COMMITTEE REPORTS
9. MEMBER COMMENTS

Board member Van Tassel commented on the postponing of the last case and the variances requested during this meeting.

Board members and Building Official Goodloe discussed the rear property line fence variance request and offered historical comments regarding variances in the Township.

Chairman Durham and Board member Walker commented on the legal opinion that was offered for the first case and as to the Board acting “slight and capricious.”

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 8:23 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 8, 2022, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS ABSENT:**
None

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

**OTHERS PRESENT:**
Ted Adams  
Christi Adams  
Adam Martin  
Lori Martin  
Kenneth Backus  
Mike Humbert  
Catherine Bako  
Kris Baker

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

2. **ROLL CALL**

3. **MINUTES**

A. 07-25-22, ZBA Regular Meeting Minutes

Board member Dunaskiss moved, seconded by Chairman Durham, to approve the 07-25-2022 minutes as presented.

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

4. **AGENDA REVIEW AND APPROVAL.**

Trustee Flood moved, seconded by Chairman Durham, to approve the agenda as presented.

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

5. **ZBA BUSINESS**

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78 – Zoned R-2
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – August 8, 2022

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Article XXVII, Section 27.17(B)
4. A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland.

Mr. Ted Adams and Christi Adams introduced themselves.

Chairman Durham stated that the Fire Department has no concerns with any of the cases on the agenda for tonight’s meeting. The Board received two letters. The first was from Mark Tarquini, 2823 Waring Place, Director of Keatington Homeowner’s Association, in support for the 6-foot height variance and the setback variances requested for the properties along Waldon Road and Chairman Durham listed all property addresses that the letter supports. The second letter was received from a neighbor expressing concerns and comments regarding the request for height and setback variances for fences along Waldon Road.

Mr. Adams summarized the variance request. They would like the 6-foot fence because of privacy and safety concerns.

Ms. Adams stated that when they purchased the home, they were told that a 6-foot fence was being paid for and put up by the Homeowner’s Association but after they moved in, they found out that this was false information. She explained what they have done up to this point to alleviate their concerns. They tried putting up a wood wall, but this was not effective. They also planted vegetation and the trees did not thrive and were not effective. When they heard about the fences that were placed on Baldwin Road, they thought this was their opportunity.

Chairman Durham asked if the traffic on Waldon Road has increased since they purchased the home.

Mr. Adams and Ms. Adams replied that it has definitely gotten busier, both traffic and pedestrian.

Ms. Adams expressed concerns over motorist stopping and trespassing on her property. People that walk along the path can see right into their home and a 4-foot fence could simply be looked over and would not provide privacy.

Chairman Durham asked how 2 more feet would help.

Ms. Adams replied that it would deter someone from hopping over the fence. If someone wanted to remove something from their property, it would be harder to take it over a 6-foot fence. When they have a 6-foot fence, it is more difficult to see a passing walker on the path.

Chairman Durham stated that he is concerned about a fence going into a wetland setback.

Mr. and Mrs. Adams explained that they have had individuals park and go onto their property to fish.
Trustee Flood asked if she had called the police.

Ms. Adams explained that she was afraid of repercussions.

Trustee Flood explained that the petitioner was actually asking for a site plan change because they are asking to replace a split rail fence that was part of the original site plan approval. He stated that they have a problem with 6 feet fences in the township. He thinks this is a Homeowner’s Association problem.

Ms. Adams stated that there is a lot more truck traffic on the road now.

Trustee Flood commented on traffic problems on Baldwin Road. He reiterated that this is a Homeowner’s Association problem because they are changing the site plan for the development. He thinks this should be worked out through planning and zoning.

Ms. Adams commented that they had listened to other meetings as to the fact that each was a case-by-case basis and she understood that this was the meeting that they should attend. She stated that for them to pay the money and then you say that they should go to the Homeowners Association, this does not seem fair.

Trustee Flood stated that he will base his decision on the practical difficulty. He believes that a 4-foot fence will suffice, and he explained.

Ms. Adams stated that the view is fine now, it is worse during the winter months.

Trustee Flood asked if the petitioner had informed the Homeowner’s Association about what is going on.

Ms. Adams stated that if someone comes down Waldon and enters the ice, they are supposed to call the Homeowner’s Association.

Trustee Flood commented on beach access in the area. He is not in favor of any 6-foot fence in the Township.

Chairman Durham asked for public comment.

Mark Rossi stated that he was the first one that was approved for a fence on Waldon Road. This petitioner’s case is amplified because of their proximity to the lagoon. The security issue is huge. He commented in the changes in the Township over the years. This petitioner is worse than his case because they have constant traffic, sound, etc. The quality of life that is affected by the changes in the Township affect them more drastically. The four-foot fence will not suffice, and a 6-foot fence is more secure and he commented on the visual aspect of having a barrier. His quality of life has increased since he was able to put up the fence.

Ms. Adams stated that they are willing to work with the Township if there is a setback issue. There isn’t anything they can do about the water’s edge.

Mr. Adams commented on the large tree on his property and explained that he would like the fence to go on the side of the tree.

Chairman Durham asked if they have considered greenery.
Ms. Adams commented that they had planted 14 evergreens and 3 lived.

Chairman Durham asked if the trees withholding the sun belong to the petitioner.

Mr. Adams and Ms. Adams stated that they do not know.

Trustee Flood stated that it would depend on the road right of way on Waldon Road.

Board member Walker stated that they can have a 6-foot fence if they move it in.

Ms. Adams stated that they asked for the setbacks so the neighbor’s fences and their fence would touch without a 10-foot gap. They understand that they can put a 6-foot fence 35 foot from Waldon Road, but they did not want to lose 35 feet.

Mr. Adams stated that that would probably be within their beach.

Board member Walker stated that he voted for Mr. Rossi’s fence but that was the last one. The problem is, they need a practical difficulty that goes with the land. He understands the changes that the Township has experienced but they would have to have to find practical difficulty with every case. He thinks this is the wrong solution. The right solution is to change the ordinance. He also is concerned with the wetland issue. They are asking for a variance against the wetland’s ordinance.

Ms. Adams stated that there is a split rail fence, and they want to put the 6-foot fence in the same location.

Chairman Durham asked Building Official Goodloe about the need to find practical difficulty with each case.

Building Official Goodloe stated that they are looking for unique circumstances that apply to the property.

Ms. Adams explained her concerns about someone drowning on her property and not being able to do anything about it.

Chairman Durham stated that how does the petitioner know where the people coming into their property are coming from.

Ms. Adams replied that they visually see the majority of them coming from Waldon Road.

Board member Dunaskiss asked if a berm could be built on the property line.

Building Official Goodloe replied yes, as long as it does not affect property drainage to adjacent properties.

Board member Dunaskiss asked if they could build a berm and put the 4-foot fence on top of the berm.

Building Official Goodloe answered yes.
Board member Dunaskiss stated that she shares the concern about the 6-foot fences. It is not the kind of look that is attractive in a community. She shares some of the same concerns with Trustee Flood. There are many trees on the property that are mature and not necessarily healthy and a lot of overgrowth preventing new greenery from being healthy. There is no point to keeping split rail fence. She suggested putting up a berm and putting a 4-foot fence on top and they could make it attractive. It would be safe and would help with visibility. She feels that this is a concern for the Homeowner’s Association, and they should share the burden. She asked if they could look at other alternatives and work with the Association to come up with a plan.

Ms. Adams stated that she can investigate this. Her practical difficulty is worse than Mr. Rossi. The Board is telling them one standard and then they are changing the meaning of practical difficulty.

Chairman Durham stated that they are looked at on a case-by-case basis. The former cases are approved. Each case should be looked at separately. He commented on the availability of coming on the property prior to tonight’s meeting and how that might not be possible with a stockade fence.

Board member Dunaskiss asked if a 4-foot fence would keep the people out of the wetland area.

Ms. Adams replied no.

Mr. Adams commented on what it would look like if he put up a berm and a 4-foot fence and the neighbors put up something different. In his opinion, this would not be appealing at all.

Building Official Goodloe stated that when you are dealing with dimensional variances, he read from a document from MSU. He stated that this document says, “if the circumstances upon which a variance is warranted is shared among numerous properties in the same zone, the variance request should be denied.” It is because it is not particular to that property. If they held the problem of noise to a standard, then everyone could qualify for a variance. This is a bigger issue for the subdivision. When the ZBA grants a variance, it stays with the property. Dogs and disputing neighbors are not a practical difficulty. If it what is being asked for is shared among all the neighbors along Waldon Road, it is not particular to one specific property.

Vice-chairman Cook stated that he is not a fan of 6-foot fences at all. He is trying to come up with a practical difficulty. After he heard what Building Official Goodloe read, it is a commonality among neighbors. When you add the wetland issue, there is a reason why we have a wetland ordinance. He is trying to find a reason why this is unique and is not able to.

Mr. Adams stated that they are the only one along Waldon Road that someone can walk on the property and drown.

Chairman Durham stated that this is a blanket request from several residents. Mr. Adams brought up the issue of being on the water. He suggested that anyone looking to get an ordinance change can make a presentation to the Township Board.

Trustee Flood stated that right now they have a committee that is supposed to be addressing this problem.

Building Official Goodloe stated that anyone can apply at the Clerk’s Office to amend an ordinance. There is an application for that.
Ms. Adams asked who decides how that happens.

Trustee Flood replied the Township Board.

Chairman Durham explained the options to the petitioners.

Mr. Adams stated that he is okay coming back 5 feet, but he cannot do that at the water’s edge.

Chairman Durham stated that this would require them to ask to be postponed and come back to the Board with different measurements and drawing and try again.

Building Official Goodloe stated that they could request a lesser variance.

Chairman Durham commented that they would not be able to provide hard numbers at tonight’s meeting in moving the fence 5 feet.

Board member Walker stated that if the petitioner agrees to move their fence in and the neighbors did not agree to move their fence in, the fences will not line up. They have to think about what it would look like overall.

Building Official Goodloe stated that this is exactly why this is not unique to this property, it also involves the neighbors.

Trustee Flood stated that tomorrow, the petitioners could put a 4-foot line all the way down their property line along Waldon Road and it would be perfectly legal. It is the homeowner’s choice.

Building Official Goodloe stated that he would have to review the wetland area because this is different.

Trustee Flood stated that the Township already has one there. If someone climbs over the fence, that is their fault.

Board member Walker commented that he did not know a resident could fill out a form to change the ordinance, he has never heard of that.

Trustee Flood stated that for anything to be put on a Township Board Agenda, it must be approved.

Board member Walker asked if this item has come before the Board before.

Building Official Goodloe commented on another ordinance amendment that went before the Board.

Trustee Flood stated that they are working to get the Committee back together to get this resolved. The way the ordinance is set up now, if they have two front yards, it is 35 feet setback for this case. The Homeowner’s Association needs to address this. If they get denied, they have recourse to go to Oakland County Circuit Court.

Chairman Durham asked for additional public comment.
Mr. Ken Backus commented on his history of living in the Township. He lives across the canal from the petitioner. He is in favor of the things that the petitioner has presented. He commented on the big trucks that unload at Kroger and that could be a reason for a 6-foot fence. If he had a taller fence, which would reduce the sound being heard. He suggested that if they survey random residents in a mile radius and ask them about the attractiveness of the fences on Baldwin as compared to the fences along Waldon Road. He believes the fences on Baldwin Road are much more attractive.

Mr. Adam Martin, neighbor, pointed out that the petitioner has an attractive nuisance. People that drive down the road and they see access to the water. The unique detriment that the petitioner has is that it is so easy and inviting for individuals to feel that they have access to that space. It is not known that this is personal property, so people assume that it is public property. Out of all the fence cases, theirs is the most unique.

Ms. Adams stated that they cannot put a berm along the wetlands because it would be an EGLE issue.

Chairman Durham asked for final comments.

Mr. Adams asked for a vote on what was presented.

Ms. Adams stated that their unique hardship is people are able to come onto their property and access the water.

Board member Walker moved, and Vice-chairman Cook supported, in the matter of ZBA Case AB-2022-29, Theodore & Christi Adams, 2922 Saturn Dr., 09-20-453-023 that the petitioner’s request for variances from Article XXVI, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.; a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east; a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west and a variance from Article XXVII, Section 27.17(B) for a 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland be denied because the petitioner did not demonstrate that the following standards for variances have been met:

The petitioner did not demonstrate practical difficulty in that from the discussions we had with the petitioner, these concerns that the petitioner has does not run, with the possible exception of the water issue. The issues of noise, too many people and trespassing are issues that are known everywhere and all of these things apply to all residents of the Township. It is not practical difficulty due to ownership of that particular property.

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

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-2
Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Martin introduced himself and summarized the variance request. He would like to postpone his case so he could come up with a practical difficulty.

Trustee Flood moved, and Chairman Durham supported, at the applicant’s request to postpone ZBA Case AB-2022-30, Adam Martin, 2936 Saturn Drive, 09-20-453-024, to October 10, 2022.

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

Mr. Pat Kaputo stated that he has vegetation along his property and commented that this vegetation is very difficult to maintain. The practical difficulty argument makes no sense, and it makes perfect sense for these residents. It is only a very small percentage of residents of Orion Township who live along Waldon Road. He commented on the increased traffic in the area, the shopping center that was not there when they moved in, the roundabout, and the church. He commented on the weeds along the safety path. He commented on other neighbors that have come before the Board for a fence. The Board doesn’t understand how this affects these neighbors’ everyday lives. The Township needs to take care of things in a timely manner.

Chairman Durham stated that practical difficulty is part of the Enabling Legislation.

Mr. Kaputo answered that he is aware, but he questioned the definition of it that the Board is using. He commented on the garbage behind Kroger. He urged the Board to listen to the petitioners.

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Ken Backus introduced himself.

Chairman Durham explained the options for the petitioner.

Trustee Flood asked if the Homeowner’s Association will address this. The fences are the Association’s boundary lines and are the Homeowners Association’s problem.
Board member Dunaskiss moved, and Trustee Flood supported, in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013 that this request, at the petitioner’s request, be postponed until October 10, 2022.

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

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.

Mr. Mike Humbert introduced himself to the Board and asked for postponement of his case.

Trustee Flood moved, and Board member Dunaskiss supported, in the matter of ZBA Case AB 2022-32, B-2022-32, Mike Humbert, 2917 Walmsley Circle Dr., 09-20-452-012 at the applicant's request to postpone this case until October 10, 2022.

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

Chairman Durham urged petitioners that were postponed at tonight’s meeting, come back to the next meeting with some new information. They can contact the Township, Building Department and he asked them to use the time they were given to research new information.

Building Official Goodloe stated that he would gladly meet with any of the petitioners to look for their practical difficulty.

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

Chairman Durham read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.
Ms. Catherine Baker introduced herself and her son to the Board. She provided pictures to the Board. She stated that a lot of her concerns involve privacy so anyone can see into their yard. A 4-foot fence doesn’t work. She likes the idea of vegetation, but it is a lot to keep up and things die off. She described the existing vegetation in her yard and the road right of way. She described safety concerns and privacy concerns that she has for her property. She doesn’t understand why the fence is such an issue.

Chairman Durham stated that the 6-foot fence is prohibited by ordinance.

Trustee Flood stated that they can put up a 6-foot fence, 35 feet off the lot line.

Ms. Baker replied that they wouldn’t have any back yard left.

Mr. Baker stated that this is why they are asking for the variance.

Trustee Flood stated that this is why the ordinance needs to be addressed.

Mr. Baker stated that the Board has the power to approve the variance so therefore, they are trying to push it on someone else.

Chairman Durham asked for public comment.

Mr. Rossi stated that the rules have changed since he was approved. They have people that have received approval along Baldwin Road and now everything has changed on how the Board is looking at it. He suggested that the Board work on what they want from the Homeowner’s Association so that they can present it to the President and try to get it done. The Association is not concerned with the perimeter of the property that involves a small percentage of people in the development.

Trustee Flood asked if they should contact Building Official Goodloe.

Building Official Goodloe stated that they should talk to Tammy Girling, Planning and Zoning Director, to find out if it was a PUD or a site plan for this development. They need to find out if the development would consider putting a fence around the perimeter.

Trustee Flood commented that hopefully they can work this out without getting lawyers involved.

Ms. Adams stated that she watched the videos of the people who got approved for the fences. Vice-chairman Cook suggested that they get a group together for conformity. She surveyed the group and got the neighbors together and now she feels responsible for all the monies spent. She felt that they were doing what they were supposed to do and now they are telling them to do something different. Something should have been said before all the time and money was wasted.

Ms. Baker explained how she decided to go to the Board for a variance. She reiterated her concerns about safety and privacy.

Building Official Goodloe stated that having two front yards can be considered a practical difficulty. He stated that 10 foot is the minimum setback off a regular rear yard. He suggested she think about this and the topography of the yard when appealing to this Board. He suggested that they look for a compromise.

Ms. Baker explained her property difficulties.

Building Official Goodloe suggested that the petitioner put this all together and come back. None of the practical difficulties were on the application. He suggested that the petitioner look at the uniqueness of their properties.
Building Official Goodloe suggested that the applicants read the minutes from the meetings where the fences were approved. This Board can only look at what they are presented in the application and what they are presenting here. The Board can only vote on what goes with the land.

Chairman Durham explained the options to the applicant.

Ms. Baker explained all the effort that she has put in so far. She does not want to postpone.

Vice-chairman Cook asked what she has done in terms of planting vegetation.

Ms. Baker stated that she planted 10 of the emeralds and all of them died. She explained the problems with the vegetation in her yard.

Mr. Baker explained that the Black Walnut trees on the other side release a toxin inhibiting other plants to grow so it is impossible to get things to grow on that side.

Trustee Flood asked who owns the road right of way.

Building Official Goodloe replied that he doesn’t know.

Trustee Flood stated that he would like clarification. He believes that it is an Oakland County right of way.

Ms. Baker expressed her concern about the vegetation in the road right of way. She reiterated her privacy and safety concerns. She does not think a 4-foot fence is sufficient.

Chairman Durham asked for public comment.

Mr. Kaputo commented on the vegetation in the area and the pathways in the area. He commented on the neighborhood plan and the visibility of the subject parcel.

Ms. Baker reiterated her safety concerns.

Mr. Baker reiterated why a 4-foot fence would not help with their privacy concerns.

Board member Dunaskiss moved, and Vice-chairman Cook supported, in the matter of ZBA Case AB-2022-33, Catherine Baker, 2933 Walmsley Circle Dr., 09-20-381-004 that the petitioner’s request for 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east and a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west be denied because the petitioner did not demonstrate that the following standards for variance have been met in this case:

1. The petitioner did not demonstrate that there is a practical difficulty existing that is different from those in the zoning and area in which they reside.

2. The petitioner did not demonstrate exceptional or extraordinary circumstances or conditions that apply to the property involved.

3. The variances are not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zoning or vicinity.

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

Mr. Michael Humbert commented that if he put a pool in his backyard, he would have to put up a 6-foot fence. This is a money issue.

7. **COMMUNICATIONS**

Trustee Flood commented on the activity of the Fencing Ad-Hoc Committee.

8. **COMMITTEE REPORTS**

9. **MEMBER COMMENTS**

Board member Walker urged residents to fill out the form to get this issue on the Township Board agenda.

Trustee Flood stated that it was one year ago in July 2021 when they held a joint meeting to address this problem. They wanted a six-month moratorium on new fences to get this resolved and they were denied.

Board member Dunaskiss commented that these requests are coming in more frequently, but they are bound by the rules too. This is a bigger problem, and she hopes that they address it.

Vice-chairman Cook commented that they do not change the rules. They have a set of parameters and they are consistent. They also go out and look at the properties. There are things going on the end of the Township and they need to do something to force their hand.

Chairman Durham thanked the Board for their support. The Board uses good judgement. Residents need to understand that the Board is bound by rules, things they must do and things that they look at in a certain way. He explained the Board’s role in the Township. The situation is only going to be changed by some different rules. As a group, they can speak louder than as an individual. The Board does the best job they can.

Board member Dunaskiss concurred with Chairman Durham. This area of Waldon Road has a great need. They should come together as a group and work together with other agencies to bring about positive change.

10. **ADJOURNMENT**

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 9:17 pm.

Motion Carried (5-0)

Respectfully submitted,

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

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

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

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

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

CONTACT PERSON FOR THIS REQUEST
Name: Mike Humbert Phone: 248.842.8793 Email: kurgen54@gmail.com

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature of Applicant: ___________________________ Date: 06/21/2022

Print Name: Mike Humbert

Signature of Property Owner: ___________________________ Date: 06/21/2022

Print Name: Mike Humbert

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

OFFICE USE ONLY

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

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

Description of variance(s):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Date Filed: ___________________________ Fee Paid: ___________________________ Receipt Number: ___________________________
Article XXVII  General Provisions

27.05 Landscaping, Fences and Walls

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

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

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

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

H. Residential Fence and Wall Regulations.

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

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

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

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

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

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

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

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

8. Barbed Wire Prohibited. Barbed wire, spikes, nails, or any other sharp-pointed intrusions shall be prohibited on top or on the sides of any fence, wall, or protective barrier, except that barbed wire cradles consisting of no more than three (3) strands of wire may be placed on top of fences enclosing public utility buildings.
construction on the rebuilding project is begun and diligently carried on within a reasonable time after the excavation, demolition, or removal of the theretofore existing building.

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 — Buildings, Structures, and Uses

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

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

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

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

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

5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the applicable zoning district, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard. (amended 07.16.18)

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

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

Date: 06/01/2022

KHA-Architectural Control Committee
Proposal submitted by:
Name Mike Humbert
Address 2917 Walmsley Circle, Lake Orion, MI 48360
Phone 248.842.8793

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

Action of Committee:
接受 Proposal as Submitted
接受 Proposal with Exceptions as Noted
Proposal Incomplete - Requires Additional Information - See Below
Reject Proposal - Against Township Zoning Regulations - See Below
Reject Proposal - Against Subdivision Deed Restrictions - See Below
其他 - See Below

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

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

For a Better Community
KHA-Architectural Control Committee

By: KHA ACC Chairperson
The fire department has reviewed the 5 attached cases and has no concerns at this time.

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

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

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

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: December 1, 2022
SUBJECT: Staff Report for AB-2022-50, Jonathon Iversen, 481 Parkview Ct.

The applicant would like to convert their existing garage into living space and build a new attached garage. The proposed attached garage will be 32.90-ft. from the front property line – the required distance is 40-ft., a variance of 7.1-ft. All other setbacks will be met and the size will not exceed the maximum floor area of all accessory structures for the lot size.

As you will see on the provided rendering and survey, the house is nonconforming at 32.5-ft. from the front property line – the proposed attached garage will be slightly further back from the front property line than the existing house, so if you decide to grant the variance, it would not be increasing a non-conformity.

As a side note, the applicant had also wanted to add a porch to the front of the house, however, the distance proposed from the porch to the front property line was closer than the existing house – so a variance for that should not be granted by the ZBA as it would be increasing a nonconformity. I explained this to the applicant and he withdrew the variance request for the porch.

If you determine to grant the variance for the garage – I suggest you include in the motion that it be conditioned upon the existing garage being converted into living space and based on the plans date stamped received November 8, 2022.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: December 1, 2022

RE: AB-2022-50, Jonathon & Allison Iversen, 481 Parkview Ct., 09-12-376-002

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

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # AB-2022-50, Jonathon & Allison Iversen, 481 Parkview Ct., 09-12-376-002, I
move that the petitioner’s request for:

1 variance from Zoning Ordinance 78 – Zoned R-1

Article VI, Section 6.04

1. A 7.1-ft. front yard setback variance from the required 40-ft. for an attached garage to be
   32.9-ft. from the front property line.

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

Please be specific how the petitioner meets these criteria

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

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

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

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case #AB-2022-50, Jonathon & Allison Iversen, 481 Parkview Ct., 09-12-376-002, I move that the petitioner’s request for:

1. variance from Zoning Ordinance 78 – Zoned R-1
   Article VI, Section 6.04
   1. A 7.1-ft. front yard setback variance from the required 40-ft. for an attached garage to be 32.9-ft. from the front property line.

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

Please be specific how the petitioner does not meet these criteria

1. The petitioner did not demonstrate Practical Difficulty because:

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

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

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

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

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

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

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

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

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

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

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

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

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

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

APPLICANT
Name: Jonathon and Allison Iversen
Address: 481 Parkview Court City/State/Zip: Orion Township, MI 48362
Phone: 248-705-7560 Cell: Fax: 
Email: jonathon.t.iversen@gmail.com

PROPERTY OWNER(S)
Name(s): Jonathon and Allison Iversen
Address: 481 Parkview Court City/State/Zip: Orion Township, MI 48362
Phone: 248-705-7560 Cell: Fax: 
Email: jonathon.t.iversen@gmail.com

CONTACT PERSON FOR THIS REQUEST
Name: Jonathon Iversen Phone: 248-705-7560 Email: jonathon.t.iversen@gmail.com

SUBJECT PROPERTY
Address: 481 Parkview Court (sometimes comes up as Blvd) Sidwell Number: 09-12-376-002 A-1
Total Acreage: 1.227 Length of Ownership by Current Property Owner: 19 Years, 6 Months

Does the owner have control over any properties adjoining this site? No
Zoning Ordinance Allowance/Requirement 40' front setback Deviation requested Approx. 8'
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. We would like to add a new attached garage so we can turn our existing garage space into a living area. On the new garage, we would like to match the existing front of our house (see proposed plan).

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. Most of the existing home as it was constructed is already within the 40' front setback. With the new garage, we would like to match the portion of the home that is already within the setback.

3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township: We would simply be matching the front of the existing structure on a private road / easement. The owner of the property with the easement is agreeable to our plans, as are our neighbors. Proposed plans will result in a home that looks as if it belongs there.

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: Neighbors have parts of their homes within the allowed setbacks as well (09-12-376-024 and 09-12-376-023). In addition, neighbors’ properties extend through the road easement, whereas ours does not. If neighbors’ front property borders ended where ours did, they too may be inside the front setback.

5. Describe how the alleged practical difficulty has not been self-created. Existing structure as built already falls within the front setback. We are simply trying to match that.

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

7. Describe how strict compliance with the ordinance unreasonably prevents the owner from using the property for a permitted purpose, or to be unnecessarily burdensome. We believe this has been established in the above answers. In addition, we are one of very few houses on a dead-end road (near the end). We would like the front of our proposed garage to match the front part of the house that is already within the setback.
Case #: ______________________

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

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: November 7, 2022

Print Name: Jonathon T. Iversen and Allison A. Iversen

Signature of Property Owner: ___________________________ Date: November 7, 2022

Print Name: Jonathon T. Iversen and Allison A. Iversen

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: ___________________________
This is to certify that, __________, Licensed Professional Surveyor, on this date have surveyed and mapped the land described as follows:

See page 2 of 2 for property description.
September 15, 2022

Allison Iversen
481 Park View Boulevard
Lake Orion, Michigan 48362
Job No. 22-8973, Page 2 of 2

PROPERTY DESCRIPTION FOR PARCEL ID #09-12-376-002

Part of Lot 147 of "JOHN WINTER LAND AND HOME SUBDIVISION" being a subdivision of part of the Southwest ¼ of Section 12, and part of the Southwest ¼ of Section 11, Town 4 North, Range 10 East, Orion Township, Oakland County, Michigan. As recorded in Liber 79 of Plats, page 30 of Oakland County Records. Being more particularly described as beginning at the most northerly corner of said Lot 147; thence proceeding South 61°57'30" East 149.38 feet to a point; thence South 50°58'00" West 332.42 feet to a point; thence North 72°30'00" West 200.73 feet to a point; thence North 55°24'00" East 386.02 feet to the Point of Beginning. Containing 1.227 Acres (Gross Area). Reserved therefrom all easements and right of ways of record.

NOTE:
The bearings as expressed on the Staked Survey and used in the property description are related to the bearing of the description of the parcel.

Huston K. Kennedy, PS
Kennedy Surveying, Inc.

HKK/clk

SEP 15 2022
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>
</tr>
<tr>
<td>Minimum Width of Lot</td>
<td>100 ft.</td>
<td>80 ft.</td>
<td>70 ft.</td>
</tr>
<tr>
<td>Minimum Lot Setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in feet)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard**</td>
<td>40 ft.</td>
<td>35 ft.</td>
<td>30 ft.</td>
</tr>
<tr>
<td>Each Side Yard***</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>35 ft.</td>
<td>35 ft.</td>
<td>35 ft.</td>
</tr>
<tr>
<td>Minimum Floor Area/Unit</td>
<td>1,320 sq. ft.</td>
<td>1,080 sq. ft.</td>
<td>960 sq. ft.</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td></td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>Total Maximum Lot Area of</td>
<td>See Section 27.02, A, 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Accessory Buildings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Height of Structures</td>
<td>30 ft.</td>
<td>30 ft.</td>
<td>30 ft.</td>
</tr>
</tbody>
</table>

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

Section 6.05 – Sign Regulation  
(amended 10.08.98, 02.21.06)

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

Section 6.06 – Tree Preservation Regulations  
(amended 08.03.00)

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

Section 6.07 – Wetland Setbacks  
(added 09.17.07)

The wetland setback requirements apply to developments in this District, according to the terms of Section 27.17.
AB-2022-50, Jonathan & Allison Iverson, 481 Parkview
09-12-376-052 Zoned R-1 1.225 Acres
53,361 ft² 25% = 13,340.25 ft²

Front yard setback required 40' - covered porch will be 25.16' 14.84'
Rear yard setback OK
Side yard setback (north) OK
Side yard setback (south) OK

Lot Coverage 484 = 1,604 ft²
House 1,120 + existing garage to become living space
Porch 24' will be 137 ft² Removed because it would be increasing a non-conformity
New Garage 795 ft²
Shed 80 ft² 8x10

2,616 ft² OK

Maximum floor area of all detached structures
Allowed 1,600 ft²
Shed 80 ft² OK

Maximum floor area of all accessory structures
Allowed 1,500 ft²
Shed 80 ft²
New garage 795 ft²

875 ft² OK

Make sure motion
is conditioned upon
the existing 484 ft²
attached garage becoming
living space.

The setback for the covered porch
would be increasing a non-conformity
therefore we are not asking for that
variance.
The fire department has reviewed the two proposed cases and has no concerns at this time.

Jeffrey Williams, CFPS – Fire Marshal
Orion Township Fire Department - Fire Prevention
3355 Gregory Road Lake Orion, MI 48359
Fax: 248.309.6993

From: Courtney Keisman <ckéisman@oriontownship.org>
Sent: Friday, November 18, 2022 10:45 AM
To: Jeff Williams <jwilliams@oriontownship.org>
Subject: ZBA Documents for the December 12, 2022 ZBA Meeting

Mr. Williams.

Hello Jeff. Attached is 2 ZBA cases that needs to be reviewed by you for the December 12, 2022 ZBA Meeting.

Thank you,

Courtney Keisman
Clerk III
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5003
W: www.oriontownship.org
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: December 1, 2022
SUBJECT: Staff Report for AB-2022-51, General Motors Orion Assembly

The applicant submitted plans for a Site Plan Amendment to their Site Plan for Expansion submitted earlier this year. The Site Plan Amendment is going to the Planning Commission at their December 7th meeting at which time they will need to deny the plans as there are two structures as part of the amendment that are taller than allowed in the IC district – allowed height is 120-ft., the structures measure 125-ft. each.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: December 1, 2022

RE: AB-2022-51, General Motors Orion Assembly, 4555 Giddings Road, 09-34-200-006 & 09-34-400-011

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

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

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

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

If you have any questions regarding the case, please give me a call at the Township ext. 5001.
In the matter of ZBA case # AB-2022-51, General Motors Assembly, 4555 Giddings Road, 09-34-200-006 & 09-34-400-011, I move that the petitioner’s request for:

1. Variance from Zoning Ordinance 78 – Zoned IC
   Article XIX, Section 19.04
   1. A 5-ft. height variance from the maximum height of 120-ft. for structures to be 125-ft. tall.

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

Please be specific how the petitioner meets these criteria

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

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

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

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

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

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

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

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

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

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

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

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

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

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

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________
SAMPLE MOTION FOR

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # AB-2022-51, General Motors Assembly, 4555 Giddings Road, 09-34-200-006 & 09-34-400-011, I move that the petitioner’s request for:

1. variance from Zoning Ordinance 78 – Zoned IC Article XIX, Section 19.04
   1. A 5-ft. height variance from the maximum height of 120-ft. for structures to be 125-ft. tall.

Please be specific how the petitioner does not meet these criteria be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

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

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

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

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

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

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

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

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

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

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

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

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

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

APPLICANT
Name: General Motors Orion Assembly

Address: 4555 Giddings Road City/State/Zip: Orion, MI 48359

Phone: ____________________ Cell: 586-690-0068 Fax: ____________________

Email: reuben.m.jones@gm.com

PROPERTY OWNER(S)
Name(s): Reuben M. Jones, Orion Assembly Plant Director

Address: 4555 Giddings Road City/State/Zip: Orion, MI 48359

Phone: ____________________ Cell: 586-690-0068 Fax: ____________________

Email: reuben.m.jones@gm.com

CONTACT PERSON FOR THIS REQUEST
Name: Chris Carnell (Walbridge) Phone: 313-963-8000 Email: ccarnell@walbridge.com

SUBJECT PROPERTY
Address: 4555 Giddings Road Sidwell Number(s): 09-34-200-006, 09-34-400-011

Total Acreage: 455.91 Length of Ownership by Current Property Owner: 40+ Years, ________ Months

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

Ordinance Allowance/Requirement Maximum height of all structures - 120 ft

Deviation requested Maximum height of 2 new structures - 125 ft

List additional ordinance requirements and deviations on a separate page
Case #: __________________________

COMMERCIAL VARIANCE

1. Describe the nature of the request. General Motors is requesting that the current zoning height of 120 ft be deviated from for 2 RTO stacks that will be 125 ft in height and are part of the construction for the new paint shop on-site.

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. This industrial property has unique circumstances with an existing 250' stack associated with the Powerhouse and Landfill gas engines.

3. If the appeal is granted, please explain how the variance will/will not be materially detrimental to the public health, safety and welfare, or to other properties or improvements in the Township. The proposed stacks are to be constructed a minimum of 600 ft away from the closes lot line, and the additional 5 ft height has been determined to have no detrimental impacts.

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: This request is unique to the zoning of this property only and consistent with what is currently on the property.

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: Not applicable- horizontal setbacks are maintained.

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. Air modeling of the stack height has resulted in the need for the additional 5' and adequate setback distances from adjacent properties show that no detrimental efforts result.
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: _______________________________ Date: 11/14/22
(must be original ink signature)

Print Name: Reuben M. Jones, Orion Assembly Plant Director

Property Owner:
If applicable:
I the property owner hereby give permission to Erich Smith, Wade Trim to represent me at the meeting.

Signature of Property Owner: _______________________________ Date: 11/14/22
(must be original ink signature)

Print Name: Reuben M. Jones, Orion Assembly Plant Director

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: _______________
Section 19.04 – Area and Bulk Requirements (Applies to Principal and Accessory Uses) (amended 07.16.18, 07.05.22)

Please see the Matrix Chart in Section 19.01 for variations to these requirements by use.

<table>
<thead>
<tr>
<th></th>
<th>IC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>100 ft. on each side</td>
</tr>
<tr>
<td>Minimum Parcel Area</td>
<td>400 acres</td>
</tr>
<tr>
<td>Maximum Parcel Area</td>
<td>500 acres</td>
</tr>
<tr>
<td>Maximum Heights of All Structures</td>
<td>120 ft. subject to additional state and/or federal permits</td>
</tr>
<tr>
<td>Minimum Clear Space Around Structures</td>
<td>50 ft. subject to review and approval by the Fire Marshall</td>
</tr>
</tbody>
</table>
The fire department has reviewed the two proposed cases and has no concerns at this time.

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

From: Jeffrey Williams <jwilliams@oriontownship.org>
Sent: Friday, November 18, 2022 1:19 PM
To: Robert Duke; John Pender
Subject: RE: ZBA Documents for the December 12, 2022 ZBA Meeting

The fire department has reviewed the two proposed cases and has no concerns at this time.

Mr. Williams.

Hello Jeff. Attached is 2 ZBA cases that needs to be reviewed by you for the December 12, 2022 ZBA Meeting.

Thank you,

Courtney Keisman
Clerk III
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5003
W: www.oriontownship.org