1. OPEN MEETING
2. ROLL CALL
3. MINUTES
   A. 6-26-2023, ZBA Meeting Minutes
4. AGENDA REVIEW AND APPROVAL
5. ZBA BUSINESS
   A. AB-2023-18, Cynthia Surmann, 2545 Freeman, 09-23-43-003
      The applicant 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 35-ft. rear yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence from
         the rear property line to the east.
      2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence from
         the side property line to the north.
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 9-ft.
         from the side property line to the south.
6. PUBLIC COMMENTS
7. COMMUNICATIONS
8. COMMITTEE REPORTS
9. MEMBER COMMENTS
10. ADJOURNMENT

In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to
contact Penny S. Shults, Clerk, at (248) 391-0304, ext. 4001, at least seventy-two hours in advance of the meeting to
request accommodations.
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 26, 2023, at 7:01 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  
Joanne VanTassel, Alternate Board member

**ZBA MEMBERS ABSENT:**  
Tony Cook, Vice-Chairman

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

**OTHERS PRESENT:**  
Scott Kehrer  
Kristen Kehrer  
Ken Parker  
Carrie Parker  
Violet Bilan  
Ned Bilan  
Seit Selimi

1. **OPEN MEETING**  
Chairman Durham called the meeting to order at 7:01 pm.

2. **ROLL CALL**

3. **MINUTES**

A. 06-12-23, ZBA Regular Meeting Minutes

Trustee Flood moved, seconded by Chairman Durham, to approve the 06-12-23 minutes as presented.

Motion Carried (5-0)

4. **AGENDA REVIEW AND APPROVAL.**

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

Motion Carried (5-0)

5. **ZBA BUSINESS**

A. **AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002**
Chairman Durham read the petitioner’s request as follows:

The applicant is seeking 2 variances from Zoning Ordinance #78 – Zoned SF (Postponed from 4-10-2023 & 5-22-2023 meetings)

Article XXVII, Section 27.02 (A)(8)

1. A 2,185.16-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

2. A 1,685.16-sq. ft. variance above the allowed Total Maximum Floor Area of All Accessory Buildings of 1,500-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

Ms. Violet Bilan introduced herself.

Chairman Durham asked if she had come to an understanding with the Planning and Zoning Office.

Ms. Bilan replied yes.

Chairman Durham asked if the proposed plan was different than what is shown on the agenda.

Ms. Bilan answered yes.

Chairman Durham read the following revised request that is proposed by Ms. Bilan.

1. The applicant is seeing a 1,352.04 square foot variance above the allowed Maximum Floor Area of 714.04 square feet to build a new 650 square foot storage shed and a new 988 square foot garage for a total of 2,352.04 square feet of attached accessory buildings.

2. The applicant is seeking an 852.04 square foot variance above the allowed maximum floor area of all accessory buildings of 1,500 square feet for existing accessory buildings of 714.04 square feet and to build a 650 square foot storage shed and a new 988 square foot garage for a total of 2,352.04 square feet of all accessory buildings per plans date stamped June 1, 2023.

Ms. Bilan agreed with the above request.

Chairman Durham stated that there is no mention of buildings that were in previous requests. He asked Ms. Bilan what she has physically removed off of the property.

Ms. Bilan replied that they removed a barn and a barn loft totaling 1,057 square feet. They also removed the garage that collapsed in 1991 in the amount of 750 square feet. They also removed the gazebo, a three-car shed which was about 720 square feet. They removed Shed A, Shed B and Shed C. They basically removed everything but the gazebo and the log cabin.

Chairman Durham agreed that this is what he observed when he visited the property.

Trustee Flood stated that the applicant removed a total of 2,471.12 square feet of accessory buildings. They are keeping the gazebo and the log cabin which is 714.04 square feet. They decreased their request by 40% and also decreased the maximum floor area of all accessory buildings by 833.12 square feet which is a 50% reduction.

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

No public comment was heard.
Chairman Durham stated that the buildings were all down. He observed a dumpster on the property, and he asked if it was still there.

Ms. Bilan replied yes. They still have a little bit of clean up.

Trustee Flood asked about the practical difficulty.

Ms. Bilan replied that their house was situated between a septic tank, and they have to build a storage building and a garage. They are going to put it where the old barn was, and the old garage was. She stated that they are not attaching the building because the house is situated between a septic tank on the west side and a water well on the east side so they cannot attach it. On the north side, they are very close to the road so they cannot put the garage there. On the south end, there is a walk out basement and the floor is less than 8 feet high so they will never be able to build a regular height ceiling garage.

Chairman Durham asked what about her situation requires all of this storage space.

Ms. Bilan replied they are not asking for anything more than they had when they purchased the house. They are not seeking additional square footage beyond what was initially present in 1999. They want to return the functionality of their property that they had by observing the natural restraints. The three-car garage is needed because they have Hummer vehicles, and they want to be able to store them protected from the elements. They also have equipment that they use for gardening. Instead of extending the house, they would like to use the shed. They had four structures when they moved in, and they are proposing four structures and the square footage will be equal.

Board Member VanTassel commented that the man of the household repairs bicycles and has a truck and a trailer that he uses for this activity. The extra storage space would be used to keep the truck and trailer inside to protect them.

Ms. Bilan stated that they have two storage units in Orion Township, and she explained how these are used. There is no intent to do any repairs in the house and she explained the storage for the bicycles. They are not going to use the proposed additional storage for their business. The garage will be used to house their vehicles and she explained what would be stored in the shed.

Board Member Walker asked if everything that she tore down was there when she bought the property.

Ms. Bilan answered yes. The problem with the Township is that they put up more and they have since removed it.

Board member Walker stated that this is one of the most difficult cases and he explained why.

Board member Walker moved, seconded by Board Member Dunaskiss supported, in the matter of ZBA Case # AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002 that the applicant's amended request based upon the plans date stamped June 1, 2023 for 2 variances from Zoning Ordinance #78 – Zoned SF, Article XXVII, Section 27.02 (A)(8) including: a reduced request to a 1,352.04-sq. ft. variance from the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing detached accessory building of 714.04-sq. ft., and to build a new 650-sq. ft. shed, and a new 988-sq. ft. garage for a total of 2,352.04-sq. ft. of detached accessory buildings; and an 852.04-sq. ft. variance above the allowed Maximum Floor Area of all Accessory Buildings of 1,500-sq. ft. for existing accessory buildings of 714.04-sq. ft. and to build a new 650-sq. ft. storage shed, and a new 988-sq. ft. garage for a total of 2,352.04-sq. ft. of all accessory buildings, be granted because the applicant did demonstrate the following standards for variance have been met in this case and set forth facts that show:

1. The unique characteristics of the property - it is irregularly shaped, backs up to a series of condominiums in the back, the topography of the land is such that there are hills and valleys that are not related to the general conditions of the area of the property.
2. Other properties in the area do not have these unique characteristics and these are exceptional and extraordinary circumstances or conditions applicable to this property that do not involve properties in the same district.

3. The applicant has made a good faith effort to reduce her original requests and, also, the applicant indicated that there is a septic field involved so there are certain areas of the property they cannot use.

4. The granting of the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located. There were a number of neighbors at the two previous meetings that were in support of the request and there was no one from the neighborhood that had any objections to this.

5. The granting of these variances 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 or endanger public safety or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

The applicant will not add additional accessory square footage over the amount of 2,471.12-sq, ft.

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

B. AB-2023-14, Scott Kehrer, 2716 Mercury Ct., 09-20-477-008

Chairman Durham read the petitioner’s request as follows:

The applicant is seeking to extend the expiration date for the approved variance for ZBA Case AB-2022-03. That variance was from Article VI, Section 6.04, Zoned R-2

1. A 7.42 front yard setback variance from the required 35-ft. to add a second story addition 27.58-ft. from the front property line.

Mr. Scott Kehrer and Ms. Kristin Kehrer introduced themselves and summarized the variance request. They were approved last year but had sticker shock when they got the actual price and had difficulty finding someone to do the work. This is the same request they received approval for last year.

Board Member VanTassel stated that the subject property is on a cul-de-sac, so the setback area is from the center of the cul-de-sac.

Mr. Kehrer stated that their neighbors have the same setback as they do.

Trustee Flood stated that the Board cannot consider monetary reasons, but he did comment that the petitioner said they had a hard time getting a contractor.

Mr. Kehrer concurred.

Trustee Flood commented on the letter in the Board packet from a neighbor supporting the request. The petitioner is beyond the year extension, but he does not have a problem with it. As long as they pull the permit, this starts the year time frame allowance.

Building Official Goodloe agreed. He explained the process for obtaining a permit.

Trustee Flood moved, seconded by Board Member VanTassel, that in the matter of ZBA Case AB-2023-14, Scott Kehrer, 2716 Mercury Ct., 09-20-477-008, that the petitioner’s request to extend the expiration date for an approved variance for ZBA Case AB-2022-03; that variance was from Article
VI, Section 6.04, Zoned R-2, a 7.42-ft. front yard setback variance from the required 35-ft. to add a second story addition 27.58-ft. from the front property line, be granted for one year from the expiration date of 2-14-23 for plans date stamped received 12-23-21 because the petitioner did demonstrate the following standards for variance have been met in this case and they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty of not being able to get a qualified contractor to meet their needs.

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: they are sitting on a cul-de-sac and because of the extra width, they cannot meet the front yard setback like other property owners in the subdivision.

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

4. The 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 and in fact will increase their property values. The petitioner has four children, and they are trying to provide a bedroom for each one.

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 or public safety. The Fire Marshall has no concerns with this variance. 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 approval will expire on February 14, 2024.

Chairman Durham asked if there was any public comment.

No public comment was heard.

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

C. AB-2023-15, Kenneth Parker, 308 N. Baldwin, 09-06-100-013

Chairman Durham read the petitioner’s request as follows:

The applicant is seeking 2 variances from Zoning Ordinance #78 – Zoned SF

Article XXVII, Section 27.02 (A)(8)

1. A 760-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,400-sq. ft. to build a 2,160-sq. ft. pole barn.

2. A 1,266-sq. ft. variance above the allowed Maximum Floor Area of All Accessory Buildings of 1,900-sq. ft. to build a 2,160-sq. ft. pole barn in addition to an existing 1,006-sq. ft. attached garage.

Mr. Ken Parker introduced himself and explained the variance request. They are building the pole barn to store agricultural equipment and he explained the exact items that would be stored inside.

Trustee Flood stated that the packet contains several letters from neighbors all in support of the variance request.
Chairman Durham read the letter of support and he listed all of the neighbors who signed the letter.

Board Member VanTassel commented that all of the signees have properties that abut the applicant’s property.

Trustee Flood commented on Suburban Farms properties.

Board Member VanTassel asked what equipment would be stored and what is the applicant going to be growing.

Mr. Parker explained all of the agricultural equipment that he would store in the building. He will use the equipment to tend to a garden. He will continue to mow the currently mowed areas.

Trustee Flood stated that the applicant is not impeding on any wetlands.

Mr. Parker concurred.

Board Member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2023-15, Kenneth Parker, 308 N. Baldwin, 09-06-100-013, that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned SF, Article XXVII, Section 27.02 (A)(8) including a 760-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,400-sq. ft. to build a 2,160-sq. ft. pole barn and a 1,266-sq. ft. variance above the allowed Maximum Floor Area of All Accessory Buildings of 1,900-sq. ft. to build a 2,160-sq. ft. pole barn in addition to an existing 1,006-sq. ft. attached garage be granted for plans date stamped received May 26, 2023 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 did demonstrate a practical difficulty: this is a 10 acre+ parcel which requires a great deal of maintenance, and this maintenance requires a great deal of equipment. The equipment to be kept in working condition needs to have ample storage and these pieces of equipment cannot be stored outside and be maintained in a proper way.

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 size of the property. The property is considered Suburban Farms and will be used for this purpose with a garden.

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

4. The 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 based on the fact that all of the neighbors that abut this property are in support of these changes.

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 or endanger public safety. 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.

Roll call vote was as follows: Walker, yes; Flood, yes; Dunaskiss, yes; VanTassel, yes; Durham, yes. Motion passes 5-0.
D. AB-2023-16, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.)

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

1. A 20-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 10-ft. from the property line along Walnut St.

2. A 20-ft. front yard setback variance from the required 30-ft. to build a shed 10-ft. from the property line along Pine Ave.

Mr. Seit Selimi introduced himself and summarized the variance request. The property is adjacent to two roads. He has water in the rear of the property and along the side. He commented on the location of the septic that determines the location of the house.

Chairman Durham stated that the Board received information from the Township offices. The site plan survey shows the attached garage will be 19.24-ft. from the property line along Walnut. The petitioner is asking for 20-ft. which is over what is needed. There is not much difference between 20 and 19.24 feet.

Trustee Flood stated that he was concerned about the sight lines along Pine Avenue and the applicant has provided them with a survey showing that he will not be encroaching into the road right of way which will take care of that line of sight.

Chairman Durham asked the applicant if he would have any trouble building since it was so wet in the back.

Mr. Selimi replied no. He has never had water on the property.

Board Member VanTassel asked if there were any soil borings done.

Mr. Selimi replied yes, and they were good. He also had Oakland County out there and they were good at both the house location and septic location.

Board Member VanTassel asked what depth did they discover water.

Mr. Selimi replied 10-12 feet down and they did not find any water. He explained why he did not locate the septic in the original planned location.

Board Member VanTassel asked if there were sanitary sewers available.

Mr. Selimi replied no.

Mr. Steve Warco commented on the improvements being made on the lot and believes they are fantastic. He is also on the lake board. He supports the improvements being proposed.

Trustee Flood commented on a condition recommended by the Planning and Zoning Department being that the shed should not be built before the house is built.

Mr. Selimi concurred with that request.

Mr. Selimi replied that there is a 7 X 7-foot temporary shed that exists on the property.

Building Official Goodloe agreed with this request.
Board member VanTassel moved, supported by Board member Walker, in the matter of ZBA Case AB-2023-16, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.) that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04 including a 20-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 10-ft. from the property line along Walnut St. and a 20-ft. front yard setback variance from the required 30-ft. to build a shed 10-ft. from the property line along Pine Ave. be granted for plans date stamped received May 30, 2023 conditioned upon the shed not being constructed until the house has been built and 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 did demonstrate a practical difficulty: the property is exceedingly narrow and in order to be able to build, the petitioner needs to be able to build on the highest ground available. It is generally not related to the general conditions in the area of the property.

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; this is a very narrow parcel of land with a lot of frontage along Pine Street which is the main street in that area with properties to the west being single family lots.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity. This allows the applicant to make use of the property as it exists.

4. Granting of the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact that there are already single family homes to the west side of Pine Street extended out into Elkhorn Lake and there are properties to the east along Walnut that have existed on similar narrow lots.

5. Granting this variance would not impair an adequate supply of light due to the fact that the property is long, and the building of a house does not impair the supply of light or air to adjacent properties. The granting of the variances would not unusually increase congestion on public streets; it is one single residential dwelling in an area filled with residential dwellings. There is also not going to be an increase of fire or endanger public safety; it is a single house on a narrow piece of property. It is not going to reasonably diminish or impair established property values within the surrounding area; the applicant is just asking to build what is already there and possibly he might increase property values of his neighbors.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

Trustee Flood commented on the hiring of the new Fire Chief.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board member VanTassel, to adjourn the meeting at 8:01 pm.
Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary
TO: The Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: July 7, 2023
RE: Case location for ZBA Meeting 7/24/2023

Below is the location of a ZBA case for the July 24, 2023, meeting.
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 10, 2023

SUBJECT: Staff Report for AB-2023-18, Cynthia Surman, 2545 Freeman

The applicant is seeking to replace a 4-ft. fence with a 6-ft. fence along the side property lines to the north and south, and the rear property line to the east. One of the reasons they indicated they would like a 6-ft. fence is because they have an inground pool.

The advertisement noted a 35-ft. rear yard setback variance for a 6-ft. fence to be on the property line, it should only be a 10-ft. rear yard setback variance for a 6-ft. fence to be on the rear property line (the 35-ft. setback is for a house). Being the variance was advertised for more than what was needed – you can act on this case and it does not need to be readvertised.

If your decision is to approve a 6-ft. fence on the property lines, it should be reflected in the motion as follows:

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

The applicant provided pictures of other 6-ft. fences in the area. I have researched these locations to see if any received variances – I did not see any record of variances however, it was hard to tell on Property Gateway if the fences did or did not meet the proper setback.

- 295 Hiram
- 2503 Freeman
- 2604 Semloh
- 2687 Freeman

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 14, 2023

RE: AB-2023-18, Cynthia Surman, 2545 Freeman, 09-23-431-003

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 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-2023-18, Cynthia Surmann, 2545 Freeman, 09-23-431-003, I move 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) Amended to:

1. A 35-ft. 10-ft. rear yard setback variance from the required 35-ft. 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line to the east.
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 north.
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 south.

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:


14
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-2023-18, Cynthia Surmann, 2545 Freeman, 09-23-431-003**, I move 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) Amended to:

1. A **35-ft, 10-ft.** rear yard setback variance from the required **35-ft, 10-ft.** to erect a 6-ft. privacy fence 0-ft. from the rear property line to the east.

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 north.

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 south.

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 - 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: Cynthia Surmann
Address: 2545 Freeman Dr.
City/State/Zip: Lake Orion, MI, 48360
Phone: NA Cell: 586-335-3864 Fax: NA
Email: cindyw402@gmail.com

PROPERTY OWNER(S)
Name(s): Martin & Cynthia Surmann
Address: 2545 Freeman Dr.
City/State/Zip: Lake Orion, MI, 48360
Phone: 586-335-3864 Cell: 586-335-3864 Fax: NA
Email:

CONTACT PERSON FOR THIS REQUEST
Name: Cynthia Surmann Phone: 586-335-3864 Email: cindyw402@gmail.com

SUBJECT PROPERTY
Address: 2545 Freeman Dr. Lake Orion, MI, 48360
Sidwell Number: 09-23-431-003
Total Acreage: 0.34 Length of Ownership by Current Property Owner: 0 Years, 0 Months

Does the owner have control over any properties adjoining this site? No
Zoning Ordinance Allowance/Requirement Deviation requested
Case #: ____________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.  Replace current 4ft chain length fence with vinyl 6ft fence.

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.  We have an inground pool and dogs.

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 not affect traffic, basically just replacing existing fence.

4. Explain how the request is/is not consistent with other properties in the immediate area. Please site examples if possible: Attached houses in the area that also has 6ft fences in the area.

5. Describe how the alleged practical difficulty has not been self-created. The current fences were included in the purchase of house.

6. The topography of said land makes the setbacks impossible to meet because: West side of property is sloped making it unable to put fence 10.5ft inside property, go right through deck around pool and into shed. Also coming in lot will also come around pool.

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. Noise from pool use, and dogs can snap the fence.
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)
Print Name: ____________

Date:

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

Date:

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

OFFICE USE ONLY

Zoning Classification of property: ____________

Adjacent Zoning: N. S. E. W.

Total Square Footage of Principal Structure: ____________

Total Square Footage of Accessory Structure(s): ____________

Description of variance(s):

____________________________

____________________________

____________________________

____________________________

____________________________

____________________________

____________________________

____________________________

Date Filed: ________ Fee Paid: ________ Receipt Number: ________

Version 1/17/2023
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

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.
From: Jeff Williams  
Sent: Wednesday, June 28, 2023 11:03 PM  
To: Debra Walton  
Cc: John Pender  
Subject: RE: ZBA Documents for the July 24, 2023 ZBA Meeting

The fire department has reviewed the proposed documentation and has no concerns at this time.

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

From: Debra Walton <dwalton@oriontownship.org>  
Sent: Tuesday, June 27, 2023 4:28 PM  
To: Jeff Williams <jwilliams@oriontownship.org>  
Subject: ZBA Documents for the July 24, 2023 ZBA Meeting

Hi Jeff,

Attached is a case that needs to be reviewed by you for the July 24, 2023, ZBA Meeting.

Thanks,

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

The Charter Township of Orion Zoning Board of Appeals will hold a Public Hearing on Monday, July 24, 2023, at 7:00 pm at the Orion Township Municipal Complex, 2323 Joslyn Road, Lake Orion, Michigan 48360, on the following matter:

**AB-2023-18, Cynthia Surmann, 2545 Freeman Dr, 09-23-431-003**

The applicant is seeking 3 variances from Zoning Ordinance #78 – Zoned R-1

1. A 35-ft. rear yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line to the east.
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 north.
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 south.

You may send correspondence regarding this case to the Charter Township of Orion, 2323 Joslyn Rd., Lake Orion, MI 48360 to the attention of the Zoning Board of Appeals or send an email to lharrison@oriontownship.org. You may also attend the public hearing in-person to express your views and/or concerns.

A complete copy of the proposed ZBA application is on file in the Planning & Zoning Department and may be examined during normal business hours, 8:30 am to 4:30 pm, Monday through Friday, until the date of the public hearing.

Orion Township will provide necessary and reasonable auxiliary aids, and services for individuals with disabilities at the public hearing upon advance notice by writing or calling Penny S. Shults, Township Clerk, 2323 Joslyn Road, Lake Orion, Michigan 48360; (248) 391-0304, ext. 4001. Please contact the Clerk’s office at least 72 hours in advance of the public hearing.

Dan Durham, Chairman
Zoning Board of Appeals
Charter Township of Orion

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I am ok with this request

Suzanne Waldron
2545 Freeman Dr
Lake Orion, MI 48360
586-242-1021