1. OPEN MEETING

2. ROLL CALL

3. MINUTES
   A. 09-13-2021, ZBA Regular Meeting Minutes

4. AGENDA REVIEW AND APPROVAL

5. ZBA BUSINESS
   A. AB-2021-41, Orion Storage, 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002 (postponed from the 7/12/2021 ZBA meeting)
      The petitioner is seeking 6 variances from Zoning Ordinance #78 – Zoned LI
      Article XVI, Section 16.04 – Area and Bulk Requirements
      1. A 20-ft. side yard setback variance, from the required 25-ft., for a building to be 5-ft. from the property line (east).
      2. A 12.52-ft. side yard setback variance, from the required 25-ft., for a building to be 12.48-ft. from the property line (west).
      3. A 7.2% lot coverage variance, above the allowed 30%, for a total lot coverage of 37.20%.
      Article XVI, Section 16.03(C)(3)
      4. A 15-ft. off-street parking setback variance, from the required 20-ft., for parking to be 5-ft. from the property line (east).
      Article XVI, Section 16.03(D)(2)
      5. A 39-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 11-ft. (south).
      6. A 37.52-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 12.48-ft. (west).

   B. AB-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014
      The petitioner is seeking 6 variances from Zoning Ordinance #78 – Zoned R-3
      Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
      1. A 20-ft. front yard setback variance from the required 30-ft. to erect a 6-ft. fence 10-ft. from the front property line on the southeast side (road side).
      2. A 20-ft. front yard setback variance from the required 30-ft. to erect a 6-ft. fence 10-ft. from the front property line on the northwest side (road side).
      3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. fence 0-ft. from the side property line (southeast).
      4. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. fence 0-ft. from the side property line (northwest).
      Article XXVII, Section 27.17 (B)
      5. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (southeast).
      6. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (northwest side).

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.
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, September 13, 2021 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, September 13, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS ABSENT:

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Linda Moran Daryl and Amy Mulonas Dan MacLeish
Rudolph Bone Forest Siegel Donni Steele

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

2. ROLL CALL
As noted

3. MINUTES
A. 8-23-2021, ZBA Regular Meeting Amended Minutes

Moved by Board member Dunaskiss, seconded by Vice-Chairman Cook, to approve the minutes as presented.
Motion carried.

4. AGENDA REVIEW AND APPROVAL

Moved by Trustee Flood, seconded by Chairman Durham to approve the agenda as presented.
Motion carried.

5. ZBA BUSINESS
A. AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidwell numbers 09-04-402-033 & 034 (postponed from 7/26/2021 meeting)

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78
1. A 7.08-ft. side yard setback variance from the required 20-ft. to construct a 2-unit condominium 12.92-ft from the adjacent condominium unit (south, between units 32 & 33 - from existing covered porch to proposed building).
2. A 1-ft. rear yard setback variance from the required 30-ft. to construct unit 33, 29-ft from the rear property line.
3. A 1.5-ft. rear yard setback variance from the required 30-ft. to construct unit 34, 28.5-ft. from the rear property line.

Mr. Dan MacLeish introduced himself to the Board and asked for the variance requests to be tabled to a future date.

Trustee Flood asked why.

Mr. MacLeish stated that there are some concerns in the neighborhood to work through and he is still working on the architectural details, including streetscape, so the community could understand it better.

Chairman Durham outlined the potential dates.

Mr. MacLeish asked for November 8, 2021.

Mr. Robert Siegel, representing Robert and Jacqueline Bone, and stated that they have objections to the variance requests. He stated that they presented documents to the Board outlining the objections. He provided history of the variance requests and history of the interaction with Mr. MacLeish. He suggested that the variance requests be withdrawn.

Chairman Durham stated that the petitioner has the right to request to be postponed.

Board member Walker stated that he is disappointed that they are still at this stage. He stated that he has pushed for the consulting meetings between parties to try to settle disagreements. He suggested that they ask for an October date.

Mr. MacLeish commented on their history with the project and their progress on the projects. He stated that they would like to come back when the case is complete.

Board member Dunaskiss suggested that the petitioner continue to have contact with the neighbors as they update their plans.

Trustee Flood commented that he will not postpone another postponement after the November date.

Trustee Flood moved, and Chairman Durham supported, at the petitioner’s request to postpone until November 8, 2021 the Cases of AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidwell numbers 09-04-402-033 & 034; Case #AB-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidwell numbers 09-04-402-035 & 036; Case #AB-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037 & 038; Case #AB-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidwell numbers 09-04-402-041 & 042; Case #AB-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidwell numbers 09-04-402-047 & 048 and Case #AB-2021-45, MacLeish Building Inc., Vacant Property between 116 Sandhills Ln. & 134 Sandhills Ln, sidwell numbers 09-04-402-067 & 068.

Roll call vote was as follows: Durham, yes; Dunaskiss, yes; Cook, yes; Flood, yes; Walker, yes. Motion failed 5-0.
B. **AB-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidwell numbers 09-04-402-035 & 036 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78
1. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from an adjacent condominium unit (north, between proposed units 36 & 37).
2. A .5-ft. rear yard setback variance from the required 30-ft. to construct unit 36, 29.5-ft from the rear property line.

C. **AB-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037 & 038 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78
1. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from the adjacent condominium unit (south, between proposed units 36 & 37).
2. A 10.26-ft. side yard setback variance from the required 25-ft. to construct a 2-unit condominium 14.74-ft from an adjacent condominium unit (north, between units 38 & 39 – from the existing covered porch to proposed building).
3. An .5-ft. rear yard setback variance from the required 30-ft. to construct unit 37, 29.5-ft from the rear property line.
4. An 8.5-ft. rear yard setback variance from the required 30-ft. to construct unit 38, 21.5-ft from the rear property line.

D. **AB-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidwell numbers 09-04-402-041 & 042 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78
1. A 9.5-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20.5-ft from the adjacent condominium unit (south, between units 40 & 41 – from existing covered porch to proposed building).
2. A 10-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20-ft from an adjacent condominium unit (north, between units 42 & 43 – from existing covered porch to proposed building).
3. An 8-ft. rear yard setback variance from the required 30-ft. to construct unit 41, 22-ft from the rear property line.

E. **AB-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidwell numbers 09-04-402-047 & 048 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78
1. A 16.17-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 13.83-ft from the adjacent condominium unit (south, between units 46 & 47 – from existing covered porch to proposed building).
2. A 14.83-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 15.17-ft from an adjacent condominium unit (north, between units 48 & 49 – from existing covered porch to proposed building).
3. A 17.5-ft. rear yard setback variance from the required 30-ft. to construct unit 47, 12.5-ft from the rear property line.
4. A 10-ft. rear yard setback variance from the required 30-ft. to construct unit 48, 20-ft from the rear property line.

F. AB-2021-45, MacLeish Building Inc., Vacant Property between 116 Sandhills Ln. & 134 Sandhills Ln, sidwell numbers 09-04-402-067 & 068 (postponed from 7/26/2021 meeting)

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78
1. A 6.58-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 23.42-ft from the adjacent condominium unit (south, between units 68 & 69 – from existing covered porch to proposed building).
2. A 6.75-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 23.25-ft from an adjacent condominium unit (north, between units 66 & 67 – from existing covered porch to proposed building).

G. AB-2021-52, Daryl & Amy Mulonas, 732 Lawson, 09-09-276-023

Chairman Durham read the petitioner’s request as follows:

The petitioners are seeking 2 variances from Zoning Ordinance #78 – Zoned R-3 Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 20-ft. front yard variance from the required 30-ft. for a 6-ft. privacy fence to be 10-ft, from the front property line.
2. A 10-ft. side yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the side property line (north).

Mr. Daryl Mulonas introduced himself and his wife Amy Mulonas to the Board and summarized his variance request. They are looking for screening for heating and cooling units next door. They are currently waiting on a survey due to delays with COVID. They have talked to the neighbors and they do not have a problem with it.

Chairman Durham stated that the Board is in receipt of information that says that the neighbors are concerned about it. He asked why a 6 foot fence.

Mr. Mulonas replied that the 6 foot will block the sound more and will provide more privacy.

Chairman Durham stated that the spec sheet on the units show that the decibel level is low.

Mr. Mulonas replied that the units never shut off.

Trustee Flood stated that according to ordinance, they can put up a 4 foot fence without a variance and also they could add arborvitae without variance.

Mr. Mulonas replied that he doesn’t care for arborvitae due to damage their roots cause.

Trustee Flood reiterated that they could put up a 4 foot fence at the property line. He stated that they do not allow the fences to extend past the front part of the home.

Chairman Durham stated that the planning and zoning department requested information from the petitioner which they were never provided. He asked if the petitioner got repeat emails from the department.

Mr. Mulonas replied that they were in contact with the department.

Board member Walker asked how long they have lived in the house.
Mr. Mulonas replied for 3 years.

Board member Walker summarized letters from 3 neighbors all objecting to the variance request.

Mr. Mulonas asked if he could have copies of the letter.

Chairperson Durham confirmed that he could get the letter from the Township.

Board member Dunaskiss read the letters from the neighbors located at 636 Lawson Drive and 616 Lawson Drive expressing their objections to the variance request.

Chairman Durham stated that he received copies of emails from the zoning department to the petitioner and he read them aloud in which the department asked about the fence’s location to the front property line. He asked if the information was ever received.

Mr. Mulonas commented that he provided the information to the department.

Chairperson Durham asked for public comment.

Linda Moran, Polly Ann Trail Manager, introduced herself. She explained her concern about having a cluttered looking area and that the property across the street is owned by the Polly Ann Trail. She doesn’t have a problem with the 4 foot fence but explained how a 6 foot fence looked clutter and not aesthetically pleasing to look at.

Chairperson Durham stated that they have had many fence cases lately and he explained how each case is seen individually.

Board member Dunaskiss asked if the petitioner had considered any other options.

Mr. Mulonas replied that they have looked at other options including vegetation but they are concerned about the roots near the septic tank.

Board member Dunaskiss asked about the units on the other side.

Mr. Mulonas commented on how these units were different than the other side.

Chairperson Durham asked about the relationship with the neighbors.

Mr. Mulonas replied that they do not hang out, but they aren’t enemies. They also wanted to cover up the trash and blight on the neighbor’s property.

Mrs. Mulonas commented that she had a conversation with the neighbors and thought it was fine but then they took action the next weekend and now they are objecting.

Mr. and Mrs. Mulonas commented on their neighboring properties. They knew they could put up a 4 foot fence and added that he really didn’t know where the property line is. He added that he cannot get a survey because of COVID.

Board member Walker suggested other vegetation that could be planted to help with the noise. He asked if they knew they could do that.

Mr. Mulonas answered yes.

Chairman Durham commented that it sounds like he does not know where the property line is so why is he here without all of the information.
Mr. Mulonas replied that they thought they could get the survey done soon but wanted to get the fence up before winter.

Chairman Durham stated that he could not support the variance tonight because of the lot line.

Mr. Mulonas commented on the neighbor’s letter and probable lot line.

Chairman Durham commented that even with a 4 foot fence, they still need a survey.

Mr. Mulonas commented on the probable location of the fence.

Chairman Durham added that the petitioner could call ordinance enforcement with the Township regarding the condition of the neighbor’s property. He gave the petitioner the options for this case.

Mr. and Mrs. Mulonas commented on their interaction with the neighbors.

Chairman Durham added that the ordinance officer could possibly help this situation.

Vice-chairman Cook stated that the application causes some concerns for him and makes him question why the fence is being asked for. He stated that the options presented do not necessarily mean that if they come back, it will be granted; there are issues with the application.

Board member Walker agreed with Vice-Chairman Cook. The application is flawed and he cannot vote on it. There is not enough information here for him to vote in his favor.

Petitioner asked to be postponed to a later date to October 25, 2021.

Board member Walker moved, and Trustee Flood supported, at the petitioner’s request to adjourn Case #AB02021-52, Daryl & Amy Mulonas, 732 Lawson, 09-09-276-023 until October 25, 2021.

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

Building Official Goodloe stated that the rules are in place for a reason and they can call the Planning and Zoning Department for help and guidance.

Trustee Flood suggested that they look at a 4 foot fence option.

6. PUBLIC COMMENTS
Donni Steele thanked the Board for their service.

7. COMMUNICATIONS
A. Date Certain Memo

8. COMMITTEE REPORTS
None

9. MEMBERS’ COMMENTS
Trustee Flood stated that the construction of the new facility is on schedule.

10. ADJOURNMENT
Moved by Chairman Durham, seconded by Trustee Flood to adjourn the meeting at 7:57 pm
Respectfully submitted,
Erin A. Mattice
Recording Secretary
TO: The Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 17, 2021

RE: Case location for ZBA Meeting 9/27/2021

In order to help you with scheduling your site visit, below is the general location of the 1 case you will need to visit for the September 27, 2021 ZBA Meeting. The other case on that meeting is Orion Self Storage which has been postponed from previous meetings and hopefully you have already visited.
MEMORANDUM

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 16, 2021

SUBJECT: Staff Report for AB-2021-41, Orion Investment Group (Orion Self Storage)

To provide some clarification - the applicant went before the Planning Commission on June 16, 2021 with a site plan which included a strip of property adjacent to the subject property belonging to Orion Township schools. The applicant intends to purchase that piece of property from the school and adding it to the subject property in order to develop the property as a self-storage business. The piece of property owned by the school was rezoned to LI to be compatible with applicant’s parcel. At the June 16, 2021 Planning Commission meeting, the site plan was denied because of several variances that were needed. The Planning Commission’s motion stated that if the variances were granted by the ZBA, the plans did not have to go back to the Planning Commission and would be deemed approved. The June 16, 2021 Planning Commission Minutes are attached.

At the July 12, 2021 ZBA Meeting, the case was postponed to the August 9, 2021 ZBA meeting to seek the Township Attorney’s opinion on two of the requested variances - the Interpretation request (variance #7) and the greenbelt requirement adjacent to Rec-2 property (variance #8).

At the August 9th meeting, a motion was made to remove variances #7 & #8. The case was then postponed to this meeting, September 27, 2021 (see attached minutes).

** When making a motion, if to approve, please include that the motion is contingent upon the purchase of the portion of the property that belongs to Lake Orion Schools. **

Please contact me if you have any questions.
unaddressed parcel of 09-35-400-044, for the plans date stamped and received 5/26/2021. Due to the fact that minimal variances are required by the ZBA, if the ZBA approves the variance the plan will be returned to the Planning Commission for completion of the review of the OHM report of June 10, 2021, items 1-13, the Fire Marshal report of June 4, 2021, and the Giffels Webster report of June 15, 2021.

**Roll call vote was as follows:** St. Henry, yes; Urbanowski, yes; Walker, yes; Gross, yes; Reynolds, yes. **Motion carried 5-0** (Hoffman & Gingell absent)

8. **UNFINISHED BUSINESS**

A. **PC-2019-04, Orion Storage Site Plan, located at 1761 W. Clarkston Rd., parcel 09-16-226-001**

Chairman Reynolds asked if the applicant was present?

Mr. Gary Casada 226 E. La Salle, Royal Oak, MI represented Orion Investments Group presented.

Mr. Casada said he was there with the owner/applicant Ken Zmijewski and they were there to address a couple of issues. They have seen them before and they hope they are ready to get site plan approval here by addressing a couple of more.

Chairman Reynolds asked if it was the main presentation that they were looking to go through here? Mr. Casada replied that his understanding was that based on a couple of site reviews that they are at the point where they are going to address the parking issue, the amount of off-street parking they would like a waiver on. They are going to present evidence of a more reasonable standard. He thought they were also going to request permission to go to the Zoning Board of Appeals, but wasn’t sure if they just approved it contingent upon the ZBA approving their variances.

Chairman Reynolds said if they wanted to give an overview of the project, then they will turn it over to the reviewers to give their input on what is outstanding and how they want to address it. He asked him to walk them through the project as a whole and then they will do the reviews, then they will address processes, items, and motions that may be addressed here tonight.

Mr. Casada stated that this was at 1761 W. Clarkston Rd., it is just to the west of the Poly Ann trail on one side and just to the east of School property on the other, it is just south of Clarkston Rd. It is in the area that is currently zoned Limited Industrial (LI), Future Land Use is Industrial Commercial mixed-use. What it currently is and has been for many years, Mr. Zmijewski or his company has owned this property since 1993 and throughout that time it has been used for both public and private storage, for landscaping, and also for public open storage. They are at the point and Mr. Zmijewski would like to improve the property, turn it into a public or mini-storage facility with a one-story unit, they are not interior they are not conditioned units, they are non-conditioned units. They are proposing to put five buildings on the site, and one small office space that would be attended by an employee, and it is not a residential office, it is just a 380-ft. office. The property will have stormwater detention at the south end. They have submitted a landscaping plan and what they are intending to do is have the total amount of the square footage of the storage would be about 56,909-sq. ft and probably 350-400 units, that haven’t been designated yet, but that is about the order magnitude of this property.

Planner Pietsch read through his review date stamped June 10, 2021.

Engineer Landis read through his review date stamped June 1, 2021.
Chairman Reynolds stated that there was also a review from the Fire Marshal he is recommending approval with no additional comments. The Public Service Director Stout had no additional comments.

Chairman Reynolds said there was a citizen’s letter from Linda Moran of the Polly Ann Trail Manager and represents the management council of the Polly Ann Trail and they are owners of the property to the east of the proposed rezoning area, and they have several concerns that they would like to have addressed. The fence needs to be removed and replaced as part of the proposed project; they would like to have a copy of the certified survey of the property, they believe the fence is on their property and would like this to be verified and corrected as part of the project.

Vice-Chairman Gross said he thought that a development of this nature would be an improvement over the existing condition of the site. He thought it was heading in the right direction. He added regarding the site plan, his first concern is the excess lot coverage it is at 37.2%, the ordinance requires only 30%. If his calculations are correct if the west building was to be eliminated, which is 9,400-sq. ft. that would take the lot coverage down to 29.7% to meet the ordinance requirements with some slight plan modifications with the elimination of that building, the requirement for waivers for inadequate east and west side yard setbacks with 5-ft. being provided and 25-ft. being required, that would be eliminated having to go to the Zoning Board of Appeals, as well. The landscape greenbelt could also be accommodated with the elimination of one building. In effect, this project could proceed without any waivers being required by the Zoning Board of Appeals. He did believe that the development of this nature would be an improvement. He believed that the determination of the parking calculation based upon the type of uses would be appropriate as submitted. But relative to the other items he believed the plan has to be denied.

Chairman Reynolds stated that he agreed with Vice-Chairman Gross, they have seen this project a few times, he was in favor of development there. He understood that a long narrow parcel is difficult to develop but thought that they were trying to put a lot in there. They have setbacks and general lot coverages for a reason. He wasn’t crazy about all the variances requested to make it work especially when it seems like it is out of undue hardship but a necessity for the economy.

Commissioner Walker said that he would like the petitioner to address the letter from the Polly Ann Trail. Mr. Casada said that they don’t have the survey in the short time they had, but if the fence is on their property of course they will accommodate.

Mr. Ken Zmijewski, the owner of Orion Investment Group, 150 Tiffany, Royal Oak, MI, stated that there was a small section, perhaps it was there when he bought it, but there is a small section maybe 10-15-ft., and it might just be a foot on there it has been there forever, to never realize that it was on there until the Polly Ann Trail people came and said that their fence was on their property. He assured them that during the development he would certainly take the fence off, it is not a large encroachment. He thought that the fence had been up for 20 years.

Chairman Reynolds said that the lot coverage and setback variances requested, versus removing various components to meet those criteria. Mr. Casada said yes. He said he wanted to address that, in fact, he mentioned they have setbacks for a reason. He said that they purchased the extra 40-ft. on the west side so that they could expand the project to make it more viable, that is the reason they invested the money in the 40-ft. because it was a very narrow site. Adding the 40-ft. allowed them to add an extra building, and to make the project more viable. Mr. Zmijewski said it also allowed them to have a full-time person on-site to
manage the project as well. In a self-storage facility by the time, they add everything up that is questionable as to be large enough to make sense to put a full-time manager on. Mr. Casada said that is why they purchased the 40-ft. strip. He added that the other reason for the setbacks and why they would like to go to the Zoning Board of Appeals, and the reason for the setbacks is the relationship with the other properties, the neighbors, and in the future with neighboring properties. In this case, this is sort of a unique situation, on the northside Clarkston Rd., no neighbors there, on the east side, not only is the Polly Ann Trail there but there is a high-tension wire running along the property line, nobody is going to build there. Everyone loves the Polly Ann Trail, it is not going to get built on, on the west side the people who sold us the 40-ft. strip they just redeveloped, there is a brand-new building out there, they have done a completely new plan out there. All the areas to the south and west of their building are going to be left natural, that is their plan. As far as the purpose of the rule of the setbacks it really doesn’t have much application here, it doesn’t give them the benefit that the community intended when they wrote the zoning ordinance. They want to have a setback so they have a green space and space between them and the neighboring property. In this case, there is never going to be a neighboring property with any development on it, there is not going to be any houses or businesses there, and really never will be. So, in this case, the zoning ordinance which they support the purposes of the zoning ordinance and the setbacks but for their property that benefit isn’t realized, and so they think that is a reason to ask for the variances, they thought they may get the variances and it allows them to do the project. They asked them to let them make that pitch to the Zoning Board of Appeals.

Vice-Chairman Gross asked if they needed a motion for the Parking Calculation Waiver? Chairman Reynolds replied yes, they do need a Parking Calculation Waiver. He added that they stated that they were going to present some facts with that. Mr. Casada stated that their project is 56,909-sq. ft. and it is in the Limited Industrial (LI), the zoning ordinance it says one parking for a 1,000-sq. ft. that is where the 57 comes from. The zoning ordinance doesn’t specifically address mini-storage, self-storage, or self-service storage however, this is self-storage. They don’t address that precisely instead they are applying the overall general application industrial parking requirement. What they did is they went around and surveyed some of the other Lake Orion storage facilities to see how they were doing, and also, they looked at four other communities in the area that have similarities to Orion Township, they looked at Troy, Oxford, Shelby Township, and Rochester Hills. The three that he wanted to mention that was Lake Orion or Orion Township facilities, U-Store at 180 W. Church St., is 40,000-sq. ft. but 3,000-sq. ft. of office space and they have 12 parking spaces. There is Storage Rental of America at 1007 Brown Rd., in Orion Township that is 49,000-sq. ft. and 900-sq. ft. of office spaces, they only have 6 parking spaces. There is CubeSmart at 1745 Waldon Rd., Lake Orion, they have 76,000-sq. ft. they don’t have an office and they only have three spaces. They have 8-spaces for 56,000-sq. ft. with a 380-sq. ft. office. What he thought was more constructive, because the evidence is a more reasonable standard. Other communities that have specifically addressed mini storage in their ordinance, Shelby Township they have one space per 50-sq. ft. of floor area used for office purposes, so that would only be applying to the office, which is only 380-ft. in their case, they don’t factor in the storage. Some of the ordinances define parking based on useable square feet, and those definitions don’t include storage or corridors. Troy, they have mini-storages one space for 100 storage units, they don’t even go by the square foot, just by units. They would comply with all of these. Rochester Hills, they have one per employee or one for 200 storage units. If that were to apply to them, they are only going to have 400 storage units, they would only need 3 spaces. For Oxford, they don’t even consider the storage area they just say 3 spaces plus one per employee. Again, any one of these four communities would be with 8 spaces for 56,000-sq. ft. they would be well within the requirements. He thought that the reasonableness here is where they have other communities that did address this, not that there is anything wrong with the ordinance here, but they don’t address this specifically. This is a case where the general application rule, maybe someday, they would like...
to amend. When people do look at it specifically, they adjust their standard to the type of business.

Chairman Reynolds said understood. He wanted to clarify for the record, he is saying their use is similar to those other examples. Mr. Casada replied yes.

Chairman Reynolds said that they do allow variance calculation waivers so they are just looking for findings of fact. At the end of the day, it is they don't believe they need that many parking spots. Mr. Casada replied yes.

Commissioner Walker asked how many units are they going to have? Mr. Casada replied 350-400.

Chairman Reynolds said they had some justification for the parking waiver.

Moved by Secretary St. Henry, seconded by Vice-Chairman Gross, that the Planning Commission approve a Parking Calculation Waiver for PC-2019-04, Orion Storage Site Plan for plans date stamped and received May 26, 2021, based on the following: that the applicant does not think that the required number of spots is necessary for adequate operation of their business, and that is based on anecdotal evidence from a number of Orion Township storage companies as well as those that are outside of the Township in adjacent communities and the numbers that are required there based on normal operations of their business.

Discussion on the motion:

Ms. Linda Moran the Polly Ann Trail Manager in Oakland County, and she represents the Polly Ann Trail Management Council. She stated that this afternoon the applicant did come to their council meeting and has asked for an easement across the Polly Ann Trail to loop the water main for his project. It is the policy of the Polly Ann Trail to deny all easements if other easements are available to him. Their question is, is there an alternative easement available to them to loop the water main for their building purposes? Either through the school water main or across the street on Clarkston Rd. Engineer Landis stated that the two options would be to either loop the water main as shown to Rhodes Rd., there was a stub left there intentionally for an extension to that main. They could approach the school and see if they could connect to their main, they recently extended into their site and he wasn't sure if that would disturb the recent construction but would be a possibility but the easiest route would be to make the connection to the public road which would require them to cross the Polly Ann Trail.

Ms. Moran said that basically what they would need is a letter from the Commission stating that fact, so they can take it to their council. They do not have a council meeting again until August to address this issue. The issue is denied unless they can get proof that there is an actual need. They do welcome the site they think that the improvements are great and thought it would enhance the property vastly and they are not opposed to the actual building site just the particulars. The destruction of the trail is of great concern to them. Engineer Landis said as part of the site plan review there are subsequent engineering plans prepared followed by oversite of the inspection by OHM on behalf of the Township. It would be their objective to have the pathway restored to its current condition. Ms. Moran asked if it would have to follow the specifications of the DNR? The DNR has a set format that they use for restorations. Engineer Landis said that they would make sure that those are included as part of the engineering plans.
Chairman Reynolds said that he believed that their initial request of clarification is there another easement opportunity available he believed that can be clarified through their administrative team and either an email or letter of sort and then to the point of the final engineering review there would be an additional review and restoration requirements for any disturbance that would occur.

Trustee Donni Steele 262 Kirksway and is on the Polly Ann Trail Commission. She said that they didn't necessarily deny them they tabled it until the next meeting. She asked if they will have an actual easement with a legal description of the easement which is 16-ft. of the left latitude that is a part of this and if it is written that the Poly Ann Trail would enter into an easement agreement with the owner, does it go into that depth or is it just an easement? Engineer Landis stated that it is part of the construction for closeout the developer would be required to prepare an easement to the benefit of the Township before they were to take ownership of the water main. So, they would have to get an easement from the Polly Ann Trail that portion of the easement. Trustee Steele said that they just created a policy to say for easements moving forward these are the requirements, so then he would have to get it from them and then give it back to them to give their final to be able to get approval to be able to do it.

Roll call vote was as follows: Urbanowski, yes; St. Henry, yes; Walker, yes; Gross, yes; Reynolds, yes. Motion carried 5-0 (Garrett & Gingell absent)

Vice-Chairman Gross stated that this matter cannot be approved by the Planning Commission because there are deficiencies in the plan with the Zoning Ordinance.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission deny site plan approval PC-2019-04, Orion Storage Site Plan, located at 1761 W. Clarkston Rd., 09-19-265-001 for the plans date stamped and received 5/26/2021. This denial is based on the following reasons: 1) that the site plan shows a lot coverage in excess of the maximum allowed by the ordinance, the ordinance allows 30% lot coverage the proposal is for 37.2% lot coverage; 2) there is inadequate east and west side yard setback with 5-ft. on the east and 12.48-ft. on the west being provided and 25-ft. is being required; 3) an inadequate landscape greenbelt on the east with 5-ft. being proposed and 20-ft. is required. There are possibilities that the plan could be modified to eliminate all these waivers by the elimination of the west building which would take the lot coverage down to 29.7% and would provide for some modifications of the site plan to meet the setback requirements.

Discussion on the Motion:

Chairman Reynolds asked does this not give them the opportunity to go for a variance, is that the intent? Vice-Chairman Gross said no they can go for a variance but they can't go without a denial. Chairman Reynolds said a straight denial is a straight denial, so it would be a denial subject to receiving the variances from the ZBA. Right now, it is a denial with re-findings of facts for the denial. Vice-Chairman Gross said right. Chairman Reynolds said so it is a straight denial no opportunity for approval if they receive their variances. Vice-Chairman Gross said if they receive their variances then they can come back. He added that they can't deny them the right to go to the Zoning Board of Appeals. Chairman Reynolds asked if it was straight site plan denial, or is it a denial based on not receiving variances? He said the formality is if it is a denial, it is dead, if it is a denial subject to conditions of receiving variances then they go and have the opportunity to seek variances. If it is a step like the other one then they are asking them to come back based on receiving their variances for additional review and a review of
what? Vice-Chairman Gross said if they receive the variances then they can come back with a revised site plan.

Planning & Zoning Director Girling said what they have done in the past, has been denied, however, if the variances are granted, they are deemed approved. So, looking at what is still outstanding she didn’t think that there was anything outstanding, they had one waiver they granted, and the only other items that are missing were the variances. If they get the variances, do they really want to see them back because those are the only outstanding items? Vice-Chairman Gross said if they get the variances, he doesn’t need to see it come back.

Chairman Reynolds stated a request for clarification that it is a request to deny based on not having the setback requirements and needing variance requests. If those variance requests are received the site plan is approved. Per all of his conditions, they get confusing verbiage sometimes but denial they treat here as a straight forth denial.

Commissioner Walker asked what the difference was between the last petitioner and this petitioner? Vice-Chairman Gross said that there were some outstanding items that needed to be addressed. Chairman Reynolds said he was all for it if they wanted to see the plans back before the final site plan approval. Commissioner Walker said he was good with not seeing them again.

Trustee Urbanowski asked what exactly are they saying here? Chairman Reynolds asked Vice-Chairman Gross to clarify the intent of the motion.

Trustee Steele asked if they could repeat the one variance. She asked if the setback was on the east side of the landscape variance of only 5-ft. or if it on the west side? Vice-Chairman Gross replied on the east side. Trustee Steele made a comment that it didn’t leave a lot of buffers for the trail, the parking lot, and the green space over there. She said she was sure that she was going to have to make the comment at the variance level which she would not want to sit through a whole other meeting. She wanted to make her objection noted that it is way too close. Chairman Reynolds said dually noted for record purposes he believed that the motion was to deny based on the not approving and having to go to the ZBA.

Vice-Chairman Gross amended the motion, Commissioner Walker re-supported that the motion was for denial because of the non-compliance with those three zoning ordinance requirements. There were no other concerns or stipulations based upon the Planners or the Engineers reports. If they are successful in receiving those variances from the Zoning Board of Appeals then the plans would be approved and they could proceed.

Roll call vote was as follows: Gross, yes; Urbanowski, yes; St. Henry, yes; Walker, yes; Reynolds, yes. Motion carried 5-0. (Hoffman & Gingell absent)

9. PUBLIC COMMENTS
None.

10. COMMUNICATIONS
None.

11. PLANNERS REPORTS/EDUCATION
A. Planned Unit Development Article
Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78 — Zoned LI

Article XVI, Section 16.04 — Area and Bulk Requirements
1. A 20-ft. side yard setback variance, from the required 25-ft., for a building to be 5-ft. from the property line (east).
2. A 12.52-ft. side yard setback variance, from the required 25-ft., for a building to be 12.48-ft. from the property line (west).
3. A 7.2% lot coverage variance, above the allowed 30%, for a total lot coverage of 37.20%.

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

Article XVI, Section 16.03(D)(2)
5. A 39-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 11-ft. (south).
6. A 37.52-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 12.48-ft. (west).
7. Interpretation of Zoning Ordinance #78, Section 16.03(D)(2), what width of greenbelt applies when adjacent to REC-2, if any?
8. A 45-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 5-ft. from a recreational use (east).

Mr. Gary Quesada introduced himself to the Board members as representing the applicant.

Chairman Durham commented on variances #7 and #8. There is no language for these variance requests. He feels that #7 and #8 should be dropped.

Mr. Quesada stated that these two variance requests, #7 and #8, were about legal issues which they talked about last time.

Board members discussed whether or not to consider variance #7 and #8.

Trustee Flood stated that according to the Township Attorney, the Zoning Board does not have the authority to weigh in on #7 or #8 because the language is not in the ordinance. The ordinance defines commercial property and residential use and zoned property. He suggested that a separate motion be made.

Trustee Flood moved, and Chairman Durham supported, in the matter of ZBA Case # AB-2021-41, Orion Storage, 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002 (postponed from the 7/12/2021 ZBA meeting) to remove items #7 Interpretation of Zoning Ordinance #78, Section 16.03(D)(2), what width of greenbelt applies when adjacent to REC-2, if any? And #8. A 45-ft. greenbelt width variance, from the required 50-ft., for the greenbelt width to be 5-ft. from a recreational use (east) be removed pending the Township Attorney’s opinion that the ZBA has no authority on judging those two items.

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

Mr. Quesada stated that if the Township hasn’t spoken on the issue, it means that there is no government mandate for the property owner to do one thing or another. He stated that they would like to go forward with the variance request. The greenspace to the Rec area is a secondary issue. He stated that they met with the Polly Ann Trail representatives and there seems to be confusion about this property. Mr. Quesada displayed several renderings for the Board members to review and he explained them. The five foot setback
that they are asking for is only in the one spot where the saw tooth approaches the building. The saw tooth moves away from the building then and moves out to 15 feet. He pointed out another point in the back that is 35 feet. They are not asking for 5 feet the whole way because it ends up being a taper. He pointed out the landscaping that would be used for screening.

Mr. Quesada stated that based on the Planning Commission’s approval, if they get approval from this Board for the variances, they can move forward.

Chairman Durham stated that they might need more, he doesn’t know.

Mr. Quesada stated that if all of the other variances are granted, he is not sure that lacking #7 and #8 are going to have an effect. He will talk to the Township Attorney and discuss it.

Board member Walker stated that the indication that he sees is that if they follow the Township Attorney’s recommendation, they are not going to hear the rest of the argument. It effectively closes the door on the case today. Another conversation with the Polly Ann Trail folks is in order.

Mr. Quesada asked if they are asking for a continuance.

Chairman Durham stated that the applicant has the right to ask for a vote on what they brought in tonight or they have the right to withdraw and re-present at another time.

Mr. Quesada stated that there might be understanding what it means that variance #7 and #8 are gone. He thinks it means there is no governmental mandate for those issues.

Chairman Durham asked if it was his feeling that if he got approval for everything except #7 and #8, that he can move forward?

Mr. Quesada replied yes, that is what he is hearing but he did not get the legal memo.

Board member Walker stated that the discussion with the Township Attorney and Polly Ann representatives might get it done.

Chairman Durham asked if there was public comment.

Linda Moran, Polly Ann Trail Manager, stated that they walked the site with Mr. Quesada. Prior to the visit, they were under the impression that it was 5 foot for the entire property. Mr. Quesada showed them the renderings and were cooperative with their requests. She stated that they added the landscaping and she thinks it is a very doable project. She stated that are fine with the amended proposed plan.

Chairman Durham asked Building Official Goodloe if the variances were successful, would they need to go to site plan review.

Building Official Goodloe asked if there were any outstanding issues.

Mr. Quesada stated that they do not have to go back to the Planning Commission if they are granted the variances.

Building Official Goodloe stated that if the site plan was changed as Mr. Quesada suggested in the aerials shown tonight, they would have to go back to the Planning Commission.

Chairman Durham commented that the site plan displayed tonight looked good.

Building Official Goodloe confirmed that they would need to go back in front of the Planning Commission for the amended site plan.
Trustee Flood stated that the applicant is using the school’s greenbelt to substantiate not having a greenbelt. In the packet, there are no neighbors shown. In fact, the school has hundreds of children occupying that building. When variances are granted, they go with the land forever. This is a concern that he has when these variances are granted. He provided historical information regarding the property.

Board member Walker stated that the request is different than the request that was in the original packet.

Mr. Quesada commented that the zigzag property line has always been there but it is difficult to tell on a two dimensional drawing. The applicant bought a 40 foot strip on the west side with the school district who redeveloped the property.

Board member Walker asked if the petitioner’s request was the same as it was before.

Building Official Goodloe stated that Tammy Girling did not mention that there were any differences.

Mr. Quesada stated that there are no differences. The only thing they added was the landscaping.

Trustee Flood stated that he is focused on the six variances in front of them; landscaping has nothing to do with them. The rezoning of the 40 feet that the petitioner purchased was approved and will remain. Even with the purchase of the 40 feet, the petitioner still cannot make the requirements of the greenbelt on the west side, nor can he meet the lot coverage.

Chairman Durham provided the options to the petitioner.

Mr. Quesada stated that he believes he needs to see the memo from the Township Attorney.

Board members discussed client confidentiality.

Mr. Quesada stated that it was probably in their best interest to withdraw the case and come back on a date certain.

Board member Walker moved, and Board member Dunaskiss supported, that at the petitioner’s request, they adjourn to a date certain of September 27, 2021.

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

E. AB-2021-46, Diane & James Zawal, 733 Buckhorn, 09-11-456-019

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

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

1. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence on the side property line (north).

James and Diane Zawal introduced themselves to the Board and explained the variance requested.

Chairman Durham asked if there was a developing neighborhood dispute over this.

Ms. Zawal stated that there were issues created by the dogs jumping into their yard. A 6 foot fence would keep their dogs safe and the neighborhood dogs would be kept out.

Mr. Zawal stated that the neighbor told him to do whatever he wanted.

Chairman Durham asked how many running feet of fence would he have.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Coordinator

DATE: September 16, 2021

RE: AB-2021-41, Orion Investment Group (Orion Storage), 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002

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.

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

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

APPROVAL OF A NON-USE VARIANCE

In the matter of ZBA case # AB-2021-41, Orion Investment (Orion Storage), 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002, I would move that the petitioner’s request for:

6 variances from Zoning Ordinance #78 – Zoned LI

Article XVI, Section 16.04 – Area and Bulk Requirements

1. A 20-ft. side yard setback variance, from the required 25-ft., for a building to be 5-ft. from the property line (east).
2. A 12.52-ft. side yard setback variance, from the required 25-ft., for a building to be 12.48-ft. from the property line (west).
3. A 7.2% lot coverage variance, above the allowed 30%, for a total lot coverage of 37.20%.

Article XVI, Section 16.03(C)(3)

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

Article XVI, Section 16.03(D)(2)

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

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

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

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

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:

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:
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-2021-41, Orion Investment Group (Orion Storage), 1761 W. Clarkston Rd., 09-16-226-001, & .648 acres of 09-16-200-002**, I would move that the petitioner’s request for:

6 variances from Zoning Ordinance #78 – Zoned LI

Article XVI, Section 16.04 – Area and Bulk Requirements

1. A 20-ft. side yard setback variance, from the required 25-ft., for a building to be 5-ft. from the property line (east).
2. A 12.52-ft. side yard setback variance, from the required 25-ft., for a building to be 12.48-ft. from the property line (west).
3. A 7.2% lot coverage variance, above the allowed 30%, for a total lot coverage of 37.20%.

Article XVI, Section 16.03(C)(3)

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

Article XVI, Section 16.03(D)(2)

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

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

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

   1. ___________________________________________________________________
   1. ___________________________________________________________________
   1. ___________________________________________________________________

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

   1. ___________________________________________________________________
   1. ___________________________________________________________________
   1. ___________________________________________________________________

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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, impar the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________
Charter Township of Orion Zoning Board of Appeals

Application for Appeal - Commercial

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

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

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

APPLICANT

Name: Orion Investment Group LLC
Address: 1328 Wheaton Troy, Mi. 48083
Email: Ken @ landscape-gardens.com

PROPERTY OWNER(S)

Name(s): Orion Investment Group LLC
Address: 1328 Wheaton Troy, Mi 48083
Email: Ken @ landscape-gardens.com

CONTACT PERSON FOR THIS REQUEST

Name: Ken Zmijeski Phone: 248-425-3448 Email: Ken @ landscape-gardens.com

SUBJECT PROPERTY

Address: 1761 W. Clarkston Rd Sidwell Number(s): 89-16-226-001
Total Acreage: 3.51 Length of Ownership by Current Property Owner: 28 Years, ________ Months

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

Ordinance Allowance/Requirement

Deviation requested
List additional ordinance requirements and deviations on a separate page

Case #: ____________________

Page 1 of 3
COMMERCIAL VARIANCE

1. Describe the nature of the request.  SEE ATTACHED PAGES

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.  SEE ATTACHED

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:  SEE ATTACHED

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

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

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

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.  SEE ATTACHED
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: 6/11/21

Print Name: Kenneth Zmijewski

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

Signature of Property Owner: ___________________________ Date: ___________________________

Print Name: ___________________________

OFFICE USE ONLY

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

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

Description of variance(s):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Date Filed: ___________________________  Fee Paid: ___________________________  Receipt Number: ___________________________
COMMERCIAL VARIANCE

1. Describe the nature of the request:

The applicant is presenting to the Orion Township Planning Commission on Wednesday, June 16, 2021. After that meeting, we anticipate the following variances will be requested from the zoning Board:

- Side yard setbacks of 25 feet (site plan is 5 feet to east; 12.48 feet to the west)
- Maximum lot coverage of 30% (site plan is 37.20%)
- Parking setback of 20 feet (site plan is 5 feet to the east)
- Greenbelt of 50 feet (site plan is 12.48 feet to the west)
- Loading berth requirement for industrial (mini-storage units have direct access)

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

The property is situated between several properties that feature natural landscapes not subject to change. To the west and south, the applicant's property abuts a large Lake Orion Community School parcel which has just been redeveloped. The school district property near applicant's property, which is a substantial area, is designated to remain natural. The property to the east is the Polly Ann Trail, which features a zone of natural landscape between the trail and applicant's property. To the north is Clarkston Road. The zoning ordinances at issue here are designed to provide a beneficial natural buffer with adjacent properties. Here, that natural buffer already exists in all directions, and for far greater distances than the setbacks in the ordinance. The ordinance is one of general application. This property is unique for the foregoing reasons, and strict application of the ordinance would impose a burden without a benefit.

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 property is currently being used as a public storage business, but only for vehicles. The improvements would create mini-storage units for public use. If the appeal is granted, there would be aesthetic improvements to the site and a new storage facility to serve market demand in the area. None of the neighbors will experience any detrimental impact, because there are no neighbors, only natural features. The improvements will also include a new water main and fire hydrants on Rhodes Road, which is benefit to the public. This main potentially
may also be extended in the future to nearby developments currently on well water.

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

**Other properties have neighbors, the applicant’s property does not.**

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

The applicant has owned the property since 1993 and consistently has used the property for public and private storage. Mini-storage is a use permitted by right under the ordinance. The applicant seeks to make improvements to the property consistent with the current state of the mini-storage industry. This request is not caused by a new owner or change of use.

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

The topography does not make the setbacks impossible, rather, the circumstances of this property and its surrounding parcels make the setbacks completely unnecessary to meet the spirit and purposes of the zoning ordinance.

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

The ordinance was written with a purpose, to create natural and beneficial buffers between properties. Here, the buffers already exist in all directions, and the buffers are natural and substantial. The ordinance was not written with the circumstances of this property in mind. In this case, the benefit sought by the policy is not obtained through application of the ordinance. Because the ordinance in this case provides no benefit, strict compliance only creates a burden upon the property owner. The applicant believes it is unreasonable to require the property owner suffer a substantial burden when the neighbors and community receive no benefit. A variance is the mechanism to address these circumstances, and we respectfully request your consideration of all the relief requested.
June 8, 2021

Charter Township of Orion
Planning Commission
2424 Joslyn Road
Lake Orion, MI 48360

Site Plan Review #2
Orion Storage

Case No: PC-2019-04
Site: 1761 W. Clarkston Road (east of Joslyn Road)
Applicant: Thomas C. Reed, Orion Investment Group, LLC
Plan Date: 5/24/2021
Zoning: Li (Limited Industrial)
Parcel ID: 09-16-226-001

Dear Planning Commissioners:

We have completed a review of the application and site plan referenced above and a summary of our findings are below. Items in bold require specific action. Items in italics can be addressed administratively.
SUMMARY OF REVIEW

1. **Zoning.** Upon submittal and review of this application, a 40-foot wide strip of property along Clarkston Road ran the depth of the west boundary of the site and was zoned SF, Suburban Farms. As “mini-storage and warehousing” is not a permitted use in the SF district, an application for rezoning the strip to LI was submitted and approved by the Township Board of Trustees on 6/7/2021.

2. **Setback Variance.** The proposed side yard setbacks of 5 feet for the east property line and 12.48 feet for the west property line are less than the district’s requirement of 25 feet.

3. **Lot Coverage.** The calculated lot coverage is 37.20%. The ordinance requires 30% lot coverage. A variance or site plan revision to reduce the amount of impervious cover is required.

4. **UPDATED - Parking Area & Driveways Setback.** The proposed parking lot is 5 feet from the east property line. A variance to permit this reduced setback from 20 feet is required as the Zoning Ordinance does not specify that this standard may be reduced through a waiver. We recommend the parking lot be redesigned to provide the required setback given the location of the trailhead.

5. **UPDATED - Greenbelts.** Section 16.03 D. requires a landscaped greenbelt of 20 feet in width along the north property line, abutting Clarkston Road, and 50 feet in width along the south and west property lines abutting residential zoning for the school property. This section does not specifically address the east boundary of the site that is adjacent to recreation use and zoning for the trail.
   a. A variance to permit the reduced greenbelt width along the east, south, and west property lines is required as the Zoning Ordinance does not specify that greenbelts may be reduced through a waiver when abutting residential or recreational property.

6. **Off-Street Parking.** The off-street parking requirement is 57 spaces. 8 parking spaces are proposed – a deficiency of 49 spaces, or 86%. The site plan indicates 1 ADA space is provided, where 3 are required. The Planning Commission may modify the numerical requirements for off-street parking, based on evidence provided by the applicant that indicates another standard would be more reasonable.

7. **UPDATED - Loading and Unloading.** The LI district requires that loading areas be located in the rear or side yard, not interfere with parking or access, and be in conformance with Section 27.04. Section 27.04 B.3. C. states that loading berths are required for “warehousing, storage and wholesale establishments” based on the gross floor area of building(s). It is our interpretation of the Zoning Ordinance that a loading berth may not be required for “mini-storage and warehousing” uses, which is the term the proposed use is under, as this is a different use than the “warehousing, storage and wholesale establishments” term provided in Section 27.04.
   a. Mini-storage facilities typically have a less-intense function than industrial “wholesale establishments” as there would be no bulk sale or other transfer of goods or materials from a mini-storage facility as it is simply a personal storage use for numerous individuals.
   b. Additionally, it is not typical for mini-storage facilities to provide individual loading berths for each building as loading and unloading would occur at each storage unit, rather than at a centralized loading area that you would see for a single-user commercial or industrial building. If the Planning Director or Planning Commission disagrees with this interpretation, the applicant should seek a variance to this section, which may be included with other variance
requests that are needed. We have no objection to a determination that a variance to this section is needed.

8. **Lighting.** The proposed lighting fixtures comply with the non-residential ordinance standards of 27.11.

9. **Fencing.** A 6’ tall, decorative, aluminum security fence is proposed at the front of the development and chain link fence segments will link the storage buildings around the perimeter of the site. The detention basin at the rear of the property will be fenced with a 6’ tall chain link fence.

10. **Outdoor Storage.** Outdoor storage is not shown to be included in the proposed development.

**Project Summary**

The applicant requests site plan approval to construct five self-storage facilities and one office facility on the property located at 1761 W. Clarkston Road, east of Joslyn Road. The applicant is under contract to purchase a 40-foot strip of undeveloped land along the entire west property line which is owned by Lake Orion Community Schools. The rezoning of this 40’ strip was approved on June 7, 2021 and is included within the site plan boundary. Patrons will access the site from Clarkston Road but may only access the fenced storage buildings through a security gate. The exterior of the proposed buildings will consist of wall-mounted lighting and the perimeter of the development will include landscaping for additional screening from adjacent properties.

**Existing Conditions**

1. **Existing site.** The subject site consists of 3.02 acres and is identified as "Lot 35 of Supervisor’s Plat of Randell Beach Park Addition". The site is bound by Clarkston Road to the north, the Polly Ann Trailway to the east, and Orion Oaks Elementary School to the west and south. The site is currently used as a landscape and outdoor storage company which are permitted uses within the LI District.

September 2018 Google Street View image of the site looking south from Clarkston Road. Land is currently vacant.

September 2018 Google Street View image of the site looking southwest from Polly Ann Trail. Land is currently vacant.
2. **Zoning.** Upon submittal and review of this application, a 40-foot wide strip of property along Clarkston Road ran the depth of the west boundary of the site and was zoned SF, Suburban Farms. As “mini-storage and warehousing” is not a permitted use in the SF district, an application for rezoning the strip to LI was submitted and approved by the Township Board of Trustees on 6/7/2021.

3. **Adjacent Zoning & Land Uses.**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>LI – Limited Industrial</td>
<td>The Complete Companies Automation</td>
</tr>
<tr>
<td>South</td>
<td>SF – Suburban Farms Residential</td>
<td>Lake Orion Community Schools</td>
</tr>
<tr>
<td>East</td>
<td>REC-2 – Recreation 2</td>
<td>Polly Ann Trailway</td>
</tr>
<tr>
<td>West</td>
<td>SF – Suburban Farms Residential</td>
<td>Lake Orion Community Schools</td>
</tr>
</tbody>
</table>
Zoning Ordinance Compliance
All proposed development and construction within the Limited Industrial Zoning District shall comply with the following standards:

4. LI District Area and Bulk Requirements.

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Parcel Size</td>
<td>2 acres</td>
<td>3.02 acres – Met</td>
</tr>
<tr>
<td>Front Yard Setback</td>
<td>50 ft</td>
<td>73 ft – Met</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>25 ft</td>
<td>Met</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>25 ft each side</td>
<td>5.00 ft (east); 12.48 ft (west)</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>30%</td>
<td>37.20% – Not Met</td>
</tr>
<tr>
<td>Maximum Height of All Structures</td>
<td>40 ft</td>
<td>Office building: 15 ft – Met</td>
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<tr>
<td></td>
<td></td>
<td>Storage buildings: Not Provided</td>
</tr>
<tr>
<td>Minimum Clear Space Around Structures</td>
<td>25 ft</td>
<td>Defer to Fire Dept. Review</td>
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<tr>
<td>Parking &amp; Driveways Setback</td>
<td>20 ft</td>
<td></td>
</tr>
<tr>
<td>Landscaped Greenbelt</td>
<td></td>
<td>5.00 ft (east of parking lot)</td>
</tr>
<tr>
<td>Wetland Setbacks</td>
<td>25 ft</td>
<td>No wetlands apparent</td>
</tr>
<tr>
<td>Off-Street Parking</td>
<td>57 spaces (1 spc / 1,000 sf GFA)</td>
<td>8 spaces – Not met (see #5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Waiver may be considered</td>
</tr>
</tbody>
</table>

5. Off-street Parking.

a. Parking requirements shall be based upon the following schedule, except as modified for a specific use within Section 16.02 (amended 08.06.07):
   i. One (1) parking space per one thousand (1,000) square feet of gross floor area or one (1) space per employee, whichever is greater. The proposed development requires 57 parking spaces. The Conceptual Site Plan on Sheet C1.0 states seven (7) off-street parking spaces and one (1) ADA space will be provided. (1 / 1,000 sq ft GFA = .001 x 56,909 sq ft). This results in a parking deficit of 49 spaces, or 86%.
   ii. One (1) additional parking space shall be added for every four (4) required spaces for facilities which operate more than one employee shift. Within the parking analysis, the applicant should provide a statement addressing this requirement and include the additional number of parking spaces required and provided, if this subsection applies.

b. The Planning Commission may, at their discretion, modify the numerical requirements for off-street parking, based on evidence provided by the applicant that indicates that another standard would be more reasonable, because of the level of current or future employment and/or the level of current or future customer traffic. (amended 01.30.86). We agree that this use typically does not generate the same parking demand as a traditional industrial use, but additional information should be provided to the Planning Commission with appropriate documentation that supports a reduced parking requirement.

c. No parking area or driveway shall be closer than twenty (20) feet to the adjacent property line. However, if the parcel in question abuts a residentially used or zoned parcel, then no parking area or driveway shall be closer than fifty (50) feet to the adjacent property line. (amended 06.15.89) The proposed surface parking spaces are setback 27’ from the Clarkston Road right-of-way line but
only 5’ from the east property line. The east property line is adjacent to a land parcel identified as “Grand Trunk Railroad” on the site plan, which is currently used as the Polly Ann Trailway. A variance to permit this reduced setback from 20 feet is required as the Zoning Ordinance does not specify that this standard may be reduced through a waiver. We recommend the parking lot be redesigned to provide the required setback given the location of the trailhead.

d. The required setback for parking may be reduced in width or waived by the Planning Commission when the parcel abuts commercial/office, or industrial zoned property, and when existing off-street parking, drives, and/or structures are located within the setback area. (amended 09.16.93) See 5.c above. A variance to permit the reduced setback along the east property line would be required. The adjacent property consists of recreational open space as a component of the Polly Ann Trailway facility. A north-south overhead power line blanket easement creates an additional buffering between the site and the active pathway and its amenities.

Section 27.04.A. – Parking and Loading Regulations

e. 1.D. Submission of Plot Plan. No off-street parking facilities shall be constructed unless a building permit is first obtained from the Building Department. Any application for a building permit shall include a plot plan showing any off-street parking facilities proposed in accordance with the provisions of this Ordinance. Calculations for required parking shall be submitted on the plot plan or site plan and shall indicate the proposed use, building square footage and required number of parking spaces. Whenever a site plan is required in accordance with the provisions of Section 30.01, said site plan shall meet the requirements of this section. (amended 11.14.85, 08.06.07) The applicant shall provide an analysis, with supporting documentation, identifying the amount of parking suitable for the proposed facility if less spaces than the ordinance requires are proposed.

f. Access. Except on lots accommodating single-family dwellings, each off-street parking space shall open directly onto an aisle or driveway of sufficient width and design as to provide safe and efficient means of vehicular access. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. Backing directly onto a street shall be prohibited. Ingress and egress to an off-street parking area lying in the area zoned for other than residential use shall not be across land zoned for residential use.

6. Loading and Unloading. All loading and unloading areas shall be in conformance with the requirements set forth in Section 27.04. The applicant should explain the loading and unloading operation and logistics of the proposed self-storage facility. All designated loading and unloading areas should be shown, labeled, and dimensioned on the site plan in a manner that demonstrates compliance of the above-mentioned requirements as well as those specified below.

Section 27.04.B.3.C. Industrial Districts. Off-street loading facilities accessory to uses allowed in districts zoned for industrial uses shall be provided in accordance with the following minimum requirements:

a. For the uses listed hereunder, one (1) loading berth shall be provided for buildings containing three thousand five hundred (3,500) to twenty thousand (20,000) square feet of gross floor area.

b. For buildings containing twenty thousand (20,000) to forty thousand (40,000) square feet of gross floor area, two (2) loading berths shall be provided, plus one (1) additional loading berth for each additional forty thousand (40,000) square feet of gross floor area or fraction thereof.

i. Warehousing, storage, and wholesale establishments.

7. Lighting. The proposed lighting fixtures comply with the non-residential ordinance standards of 27.11.
8. **Fencing.** Fences required for screening purposes shall be a minimum of six (6) feet in height, and shall be constructed of redwood, cedar, or No. 1 pressure-treated wood, vinyl or other materials approved by the Planning Commission or Building Official, with posts sunk into the ground at least three (3) feet. Chain link fences shall not be permitted for screening purposes. viii. 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. A 6’ high, aluminum, ornamental fence is proposed parallel to the front property line, between the office and storage buildings in the rear. The fence will include separate 6’ tall vehicular and pedestrian gates adjacent to the office building. A 6’ tall chain link fence, with gate, is proposed around the detention basin at the rear of the property. Small segments of chain link fencing are also shown between the storage buildings near the periphery of the site.

9. **Outdoor Storage (§27.19).** Outdoor storage is not shown to be included on the site plan.

10. **Safety Paths.** Required pathways for pedestrian and bicycle use shall be constructed in conformance with the following specifications:

    a. **Location and Width.** Required pathways shall be eight feet in width and shall be located in the road right-of-way, with a setback of one (1) foot from the property line. The Planning Commission may modify this requirement in consideration for the location of utilities, existing landscaping, or other site improvements. The existing safety path along Clarkston Road is shown to be located within the boundaries of the subject property. A pedestrian access easement may be required. The width should be called out on the site and landscape plans. We defer to the Township Engineer on compliance with Ordinance No. 97.

    b. **Design Standards.** Required pathways shall be constructed of asphalt or concrete in accordance with adopted engineering standards for the Township. Applicant should demonstrate compliance upon permitting and inspection.

    c. **Alignment with Adjacent Pathways.** Required pathways shall be aligned horizontally and vertically with existing pathways or sidewalks on adjacent properties. The Planning Commission may waive this requirement if existing adjacent pathways or sidewalks are not constructed in conformance with the standards set forth herein. The existing safety path ties into the Poly Ann Trail at the subject site. Additionally, a proposed connector of the Poly Ann Trail with the Point Creek Trail to the east, falls along the Clarkston Road corridor to the east. Trail access amenities, such as vehicle and bicycle parking, bicycle repair, maps, and resting facilities, underscore the importance of pathway connectivity at this specific site.

    d. **Signage.** The Planning Commission may require installation of signage for the purposes of safety where it is necessary to separate vehicular traffic from pedestrian and bicycle traffic, or where it is necessary to alert vehicular traffic of the presence of the pathways.

    e. **Maintenance.** The owner of the property which fronts on the required pathway shall be responsible for maintenance of the pathway, including patching cracked or deteriorated pavement and removal of glass and other debris. The site plan indicates the existing safety path will be replaced where needed.
Respectfully,
Giffels Webster

Rod Arroyo, AICP
Partner

Eric Pietsch
Senior Planner
Section 16.03 – Required Conditions (amended 02.01.16)

All activities and uses in this District shall comply with the following required conditions, except where an existing building is legally in nonconformance with certain conditions, or where a variance from the conditions has been legally granted by the Zoning Board of Appeals. (amended 01.30.86)

A. Site Plan Approval. The proprietor shall submit a site plan for approval pursuant to the requirements set forth in Section 30.01 of the Zoning Ordinance.

B. Minimum Parcel Size. The minimum lot area shall be two (2) acres.

C. Off-Street Parking.

1. Parking requirements shall be based upon the following schedule, except as modified for a specific use within Section 16.02 (amended 08.06.07):
   a. One (1) parking space per one thousand (1000) square feet of gross floor area or one (1) space per employee whichever is greater.
   b. One (1) additional parking space shall be added for every four (4) required spaces for facilities which operate more than one employee shift.

2. The Planning Commission may, at their discretion, modify the numerical requirements for off-street parking, based on evidence provided by the applicant that indicates that another standard would be more reasonable, because of the level of current or future employment and/or the level of current or future customer traffic. (amended 01.30.86)

3. No parking area or driveway shall be closer than twenty (20) feet to the adjacent property line. However, if the parcel in question abuts a residentially used or zoned parcel, then no parking area or driveway shall be closer than fifty (50) feet to the adjacent property line. (amended 06.15.89)

4. All internal roadways and driveways in the front yard area shall be continuously curbed. Driveways and parking areas shall be curbed and consist of hard-surfaced concrete, blacktop, crushed concrete or gravel, as approved by the Planning Commission.

5. All off-street parking shall conform to the standards set forth in Section 27.04 of this Ordinance.

6. The required setback for parking may be reduced in width or waived by the Planning Commission when the parcel abuts commercial/office, or industrial zoned property, and when existing off-street parking, drives, and/or structures are located within the setback area. (amended 09.16.93)

D. Landscaping.

1. A landscape plan shall be submitted to the Planning Commission for approval. The landscape plan shall specify plant materials and landscape treatment, based on the requirements of Section 27.05 of this Ordinance for such items. This landscape plan shall be part of, or accompany, the site plan.

2. A landscaped greenbelt at least twenty (20) feet in width shall be provided along the entire perimeter of an LI District, except where ingress and egress drives are located, when the parcel abuts commercial/office or industrially zoned property. However, when the parcel abuts any residentially used or zoned property, the landscaped greenbelt shall be at least fifty (50) feet in width, except where ingress or egress drives are located. (amended 06.15.89)

3. The off-street parking areas and access driveways shall be screened from view from any adjoining residential property. Such screening shall consist of earth berms, permanent walls or evergreen landscaping subject to approval of the Planning Commission.
Article XVI  Limited Industrial (LI)

4. All landscaping and screening shall be maintained in an attractive, litter-free, safe, and healthy condition. Maintenance of all landscaping shall be of sufficient frequency to prevent overgrowth and deterioration from the original condition.

5. The landscaped greenbelt required along with the perimeter of the parcel may be reduced in width or waived by the Planning Commission when the parcel abuts commercial/office or industrially zoned property and when existing off-street parking, drives and/or structures are located within the setback area. The Planning Commission may, at their discretion, modify or waive certain landscaping requirements in accordance with the considerations outlined in Section 27.05. (amended 01.30.86, 09.16.93)

E. Lighting Regulations. (amended 04.27.00)

1. A lighting plan shall be submitted with all site plans as set forth in Section 27.11 of this Ordinance. All other Zoning Ordinance regulations shall apply unless otherwise noted in this Ordinance.

2. Exterior site lighting shall be fully shielded and directed downward to prevent off-site glare.

3. Site illumination on properties adjacent to residential properties shall not exceed 0.3 foot-candle along property lines, or 1.0 foot-candle along non-residential property lines. Parking lot lighting shall be governed by Section 27.11.

F. Public Road Access. Any use developed or proposed within this district shall have direct access to a dedicated public road having an existing or proposed right-of-way of at least eighty-six (86) feet.

G. Utilities. If possible, all utilities servicing the business structure shall be buried underground.

H. Covered Trash Areas.

1. Covered trash receptacles, surrounded on three (3) sides by masonry brick-type walls one (1) foot higher than the receptacle shall be provided in the rear yard of the building or principal use structure.

2. The fourth side of the trash receptacle enclosure shall be equipped with an opaque lockable gate that is the same height as the brick-type wall.

3. The Planning Commission may, at their discretion, waive the requirements for a covered trash receptacle as described herein, if, after considering the nature of the operation being proposed, the Commission determines that the amount of trash generated can be adequately disposed of without use of an outside trash receptacle. (amended 01.30.86)

I. Loading and Unloading.

1. Loading and unloading areas shall be located in the rear or side yard of a non-residential district.

2. Loading and unloading areas shall not be located where they will interfere with parking or obstruct ingress or egress.

3. All loading and unloading areas shall be in conformance with the requirements set forth in Section 27.04.

J. Performance Guarantee Requirement. The Planning Commission shall require a performance guarantee to be deposited with the Township Clerk in accordance with the provisions set forth in Section 30.09, to ensure that necessary and required improvements proposed on the site plan will be completed. (amended 08.15.16)

K. General. All activities and uses within this District shall conform to the following:

1. Smoke. A person or industry shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour, which is:
Article XVI  

**Limited Industrial (LI)**

a. No wastes shall be discharged into the public sewer system which are dangerous to the public health and safety.

b. Acidity or alkalinity shall be neutralized to a pH of 7.0 as a daily average on a volumetric basis, with a maximum temporary variation of pH 5.0 to 10.0.

c. Wastes shall contain no cyanides and no halogens and shall contain not more than 10 p.p.m. of the following gases: hydrogen sulphite, sulphur dioxide and nitrous oxide.

d. Wastes shall not contain any insoluble substance in excess of 10,000 p.p.m. or exceeding a daily average of 500 p.p.m. or fail to pass a No. 8 Standard Sieve, or have a dimension greater than one-half (1/2) inch.

e. Wastes shall not have chlorine demand greater than 15 p.p.m.

f. Wastes shall not contain phenols in excess of .005 p.p.m.

g. Wastes shall not contain any grease or oil or any oil substance in excess of 100 p.p.m. or exceed a daily average of 25 p.p.m.

L. Sign Regulation. All signs shall comply with the standards set forth in Orion Township Sign Ordinance No. 153. *(amended 10.08.98, 02.21.06)*

M. Safety Paths. Construction of safety paths for pedestrian use and use by non-motorized vehicles shall be required in conjunction with the development of all parcels in this zoning district. The safety paths shall conform to the specifications outlined in Section 27.06 and Ordinance No. 97. *(amended 01.05.87, 02.03.03)*

N. Tree Preservation Regulations. The tree permit requirements apply to developments in this District, according to the terms of Section 27.12. *(amended 08.03.00)*

O. Wetland Setbacks. The wetland setback requirements apply to all developments in this District, according to the terms of Section 27.17. *(added 09.17.07)*

**Section 16.04 - Area and Bulk Requirements (Applies to Principal and Accessory Uses)** *(amended 02.01.16, 07.16.18)*

Please see the chart in Section 16.01 for variations to these requirements by use.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>LI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>50 ft.</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>25 ft. *</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>25 ft. on each side *</td>
</tr>
<tr>
<td>Minimum Lot Area</td>
<td>2 acres</td>
</tr>
<tr>
<td>Maximum Lot Area</td>
<td>30 acres</td>
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<tr>
<td>Maximum Lot Coverage</td>
<td>30%</td>
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<tr>
<td>Maximum Heights of All Structures</td>
<td>40 ft. *</td>
</tr>
<tr>
<td>Minimum Clear Space Around Structures</td>
<td>25 ft.</td>
</tr>
</tbody>
</table>

* Within the Lapeer Road Overlay District, building height shall not exceed fifty (50) feet. However, if a building exceeds forty (40) feet in height, rear yard and side yard setback shall increase by ten (10) feet for a total of thirty-five (35) feet side yard and thirty-five (35) feet rear yard. *(added 02.01.16)*
LEVEL SPREADER (E-4)

PLAN VIEW

SECTION A-A

SECTION B-B

SECTION C-C

Level Spreader Detail per OCDC

Note: Detail shall be modified as needed to fit site conditions. Final detail shall be reviewed and approved by the Township Engineer.

Detention Pond Cross Section Detail

Not to Scale
ZONED SF

Luminaire Schedule

Symbol Qty. Label L.L.F Description Lum. Watts Lum. Lumens
--- --- --- --------------- --------------- ---------------
D 2 L1 0.900 LUMARK PRV-ASD-D-UNV-T4-BZ 87 10261
A 4 L2 0.900 LUMARK XTORS-BW 25.5 2710

Calculation Summary

Label Units Avg Max Min Max/Min Avg/Min
--- --- --- --- --- --- ---
Parking Lot FC 1.92 4.4 0.3 16.07 6.40
Property Line Industrial Zone FC 0.07 0.7 0.0 N.A. N.A.
Property Line near SF Rare Zone FC 0.00 0.0 0.0 N.A. N.A.
Storage Drive Areas FC 1.62 22.5 0.0 N.A. N.A.

NOTE:

1. WALL PACK TYPE L2 SHALL BE MOUNTED 7'-4" A.F.G. AS MEASURED FROM BOTTOM OF LUMINARIA.

2. AREA POLE HEIGHT AT 15'-0" A.F.G.
From: John Fitzgerald [mailto:John.Fitzgerald@lok12.org]
Sent: Monday, September 27, 2021 2:15 PM
To: Ken Zmijewski
Subject: Project Support

To Whom It May Concern,

Lake Orion Community Schools supports the storage project, as designed, next door (east) of our Early Childhood Center located on Clarkston and Joslyn Roads.

Thank you,

John D. Fitzgerald, CMA, CFM, CFO
Assistant Superintendent for Business & Finance
Lake Orion Community Schools
PH: 248-693-5415
John.Fitzgerald@lok12.org
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: September 15, 2021
SUBJECT: Staff Report for AB-2021-54, Bruce Albert, 900 Walnut St.

Being that the property is more than 70-ft. wide at the front yard setback, there is no side yard setback relaxation – the side yard setback is 10-ft.

The request is to run a 6-ft. fence on the side property lines to the east and west stopping 10-ft. from the front property line (road side) on both sides. The fence is also proposed to be 5-ft. away from the wetland area depicted on the aerial view as the brownish area north of the lake.

The petitioner has indicated that he would like to put the fence up between his property and the property to the east first.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: September 15, 2021
RE: AB-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014

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

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

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

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

In the matter of ZBA case #AB-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014, I would move that the petitioner’s request for:

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

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

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

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

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

4. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. fence 0-ft. from the side property line (northwest).

Article XXVII, Section 27.17 (B)

5. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (southeast).

6. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (northwest side).

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

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

   ____________________________
   ____________________________
   ____________________________

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

   ____________________________
   ____________________________
   ____________________________

57
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-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014, I would move that the petitioner’s request for:

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

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

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

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

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

4. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. fence 0-ft. from the side property line (northwest).

Article XXVII, Section 27.17 (B)

5. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (southeast).

6. A 20-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. fence 5-ft. from a wetland (northwest side).

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

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

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

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

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

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

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

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

4. Unreasonably diminish or impair established property values within the surrounding area due to:
5. Or, in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:
NOTICE TO APPLICANT:
The following application must be completed and filed with the Township at least thirty days prior to a scheduled ZBA meeting in order to initiate an appeal. There is a non-refundable fee of $200.00 for a residential application.

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

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

APPLICANT

Name: Bruce Albert
Address: 900 Walnut St  City/State/Zip: Lake Orion, MI  48362
Phone:  
Cell: 248-318-8220  Fax: 
Email: brucej.albert@gmail.com

PROPERTY OWNER(S)

Name(s): Bruce & Rebecca Albert
Address: 900 Walnut St  City/State/Zip: Lake Orion, MI  48362
Phone: 
Cell: 248-318-8220  Fax: 
Email: brucej.albert@gmail.com

CONTACT PERSON FOR THIS REQUEST

Name: Bruce Albert  Phone: 248-318-8220  Email: brucej.albert@gmail.com

SUBJECT PROPERTY

Address: 900 Walnut St Lake Orion  Sidwell Number: 09-10-380-014
Total Acreage: 0.92  Length of Ownership by Current Property Owner: 5 Years, 9 Months

Does the owner have control over any properties adjoining this site?  
Zoning Ordinance Allowance/Requirement Deviation requested R-3
Case #: 

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. **Install a 6ft Privacy Fence on both sides of the property on the property line**

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 driveway is oriented in such a way that our car lights shine into our neighbor's window.**

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: **This is a simple fence that both my neighbors and I agree to.**

4. Explain how the request is/is not consistent with other properties in the immediate area, please site examples if possible: **There are other neighbors that have 6ft privacy fences and this will not block any site lines at the road.**

5. Describe how the alleged practical difficulty has not been self-created. **There is currently a 4ft fence in place.**

6. The topography of said land makes the setbacks impossible to meet because: **The fence would be right up next to the house if it were 10ft off the property line.**

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. **This would take up most of my yard up on the left side of the house.**
Case #: ______________________________

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

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

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

Signature of Applicant: ______________________________ Date: 8/30/21

Print Name: ______________________________

Signature of Property Owner: ______________________________ Date: 8/30/21

Print Name: ________________

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: _______________
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.
27.17 Wetland Setbacks

Section 27.17 – Wetland Setbacks (added 09.17.07)

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

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

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

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

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

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

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

Section 27.18 - Wind Energy Conversion Systems (added 02.01.18)

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

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

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

2. Commercial WECs: A special land use has been obtained pursuant to Section 30.02 and this Section.
The fire department has reviewed the 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

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**From:** Courtney Keisman <ckeisman@oriontownship.org>  
**Sent:** Thursday, September 2, 2021 1:22 PM  
**To:** Jeff Williams <jwilliams@oriontownship.org>  
**Subject:** AB-2021-54 Bruce Albert, 900 Walnut St.

Mr. Williams,

Hello Jeff. Lynn asked me to send you these attached documents regarding AB-2021-54, Bruce Albert, 900 Walnut St. for the September 27, 2021 Zoning Board of Appeals meeting.

Thank you,

---

**Courtney Keisman**  
Clerk  
Planning & Zoning  
2525 Joslyn Road, Lake Orion, MI 48360  
O: 248.391.0304, ext. 5003  F: 248.391.1454  
W: www.oriontownship.org
Hello. This email is in regard to Bruce Albert and his zoning appeal. I have lived in Lake Orion my entire life. I have never cared who put fences up, how tall they were, if they were on the property line or 20 feet in from the property line. A growing number of Lake Orion residents are becoming very upset with the zoning board and their arbitrary rules about how much privacy a person can have on THEIR property. If Bruce Albert decides he wants to put up a fence, its his right to do so, its his property. None of you board members should care about trivial issues like this. It is my suggestion that the zoning board relax the rules about fencing and things of this nature because they only discourage and frustrate residents to the point of either ignoring the rules or moving. With technological advancements, privacy is becoming scarce. I ask that in the city where "Living is a vacation", that the people overseeing these matters would value the residents' privacy and wellbeing.

In summary, let him build the fences.

Thank you,
Kate Erdman
Steven Wargo  owner  
910 Walnut st Orion Twp 48362  
Phone 248.736.8191  

Please submit this document and other documentation to the The Charter Township of Orion Planning Board of Appeals public hearing on Monday, September 27, 2021, at 7:00 pm.

Per: AB-2021-54, Bruce Albert, 900 Walnut St., 09-10-380-014  
Below are line items of concern and observation.

Line Item (2) on the Bruce Albert (Alberts) Variance request: Alberts Vehicle headlights shine into my Front living-room windows....Alberts property is on a higher elevation than my property. The Albert's had revisions/repair completed to their front yard driveway. The revisions provided them with additional parking space. One of these driveway revisions allowed the Albert's to park their vehicles horizontal to their house as opposed to perpendicular (headlights pointing at their garage). This driveway revision created a nuisance for me. Their headlights now shine directly into my front living room windows. This is very bothersome especially in the winter (vehicle warmup). No resolution to this nuisance has been attempted by the Alberts. I agree with the six-foot fence because I think it will solve the nuisance vehicle headlights shining in my windows issue.

Line Item (5) on the Alberts Variance request: There is currently a partial 4ft fence in place. The current fence in place does not run the length of the property. It runs from the lake towards the road and stops alongside the houses and is well short of reaching the front yards. The distance between the current fence and the Alberts house is about 15 feet. This will allow for a minimal setback from the property line alongside their house, though ten feet would be restrictive something less might be in order. The current fence is set 1.5 feet on my side of the property.

Line Item (6 & 7) on the Alberts Variance request:  
The front yard of the Alberts residence and their backyard are completely open. Their lot width is about 70ft. I'm surprised that the Alberts aren't asking for variance changes reducing ordinance restrictions for both sides of their property.

Pertaining to Lake & wetlands & Road Side.

I think the distance Zoning Ordinance #78 – Zoned R-3 for setbacks required along the Lake, wetlands & Road should be kept according to the ordinances.