1. OPEN MEETING
2. ROLL CALL
3. ELECTION OF OFFICERS
4. MINUTES
   A. 12-12-2022, ZBA Meeting Minutes
5. AGENDA REVIEW AND APPROVAL
6. ZBA BUSINESS
   A. AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024
   The petitioner is seeking 3 variances from Zoning Ordinance #78 - Zoned R-2
   Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)
   1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
   2. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
   3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.
   The petitioner is seeking 3 variances from Zoning Ordinance #78 - Zoned R-2
   Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2)
   1. A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd.
   2. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east.
   3. A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.
   C. AB-2023-01, Ricardo Skakal, 540 N. Newman, 09-04-126-011
   The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned SE
   Article XXVII, Section 27.02(A)(8)
   1. A 1,000-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to build a 2,400-sq. ft. pole barn.
   2. A 1,912-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 2,400-sq. ft. pole barn in addition to an existing 1,412 attached garage.
   D. 2022 Annual Report
7. PUBLIC COMMENTS
8. COMMUNICATIONS
   A. Memo Regarding Cancelling February 27, 2022 Meeting
9. COMMITTEE REPORTS
10. MEMBER COMMENTS
11. 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.
TO: The Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: January 26, 2023
RE: Election of Officers

Per the Township ZBA By-Laws, Article IV, Section A.: “The ZBA shall have a Chairperson, Vice Chairperson, and Secretary”

Attached are the approved minutes from the January 10, 2022, meeting where the officers were appointed for 2022. You can use this to help formulate the motion language for the 2023 Election of Officers.
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, January 10, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, January 10, 2022, at 7:00 pm at the Orion Township Community Center, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS ABSENT:
None

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Joe Latozas
Linda Anglebrandt
Dawn Wallin
Barb Schalk

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

2. ROLL CALL

3. ELECTION OF OFFICERS
Trustee Flood moved, seconded by Vice-Chairperson Cook, to nominate Dan Durham for Chairperson for the Zoning Board of Appeals for the calendar year 2022, close the nominations and a unanimous ballot be cast.

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

Trustee Flood moved, seconded by Board member Dunaskiss, to nominate Tony Cook to serve as Vice-Chairperson for the Zoning Board of Appeals for the calendar year 2022, close the nominations and a unanimous ballot be cast.

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

Trustee Flood moved, seconded by Board member Walker, to nominate Diane Dunaskiss to serve as Secretary for the Zoning Board of Appeals for calendar year 2022, close the nominations and a unanimous ballot be cast.

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

4. MINUTES
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****

REGULAR MEETING – MONDAY, December 12, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, December 12, 2022, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

**ZBA MEMBERS ABSENT:**
None

**CONSULTANT PRESENT:**
Lynn Harrison, Planning & Zoning Specialist

**OTHERS PRESENT:**
John Maynard
Allison Iversen
Jason Gault
Justin Brooks
Jon Iversen
Gary Jensen
Adam Martin

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

2. **ROLL CALL**

3. **MINUTES**

   A. 11-28-22, ZBA Regular Meeting Minutes

   Board member Walker moved, seconded by Chairman Durham, to approve the 11-28-2022 minutes as presented.

   Motion Carried

4. **AGENDA REVIEW AND APPROVAL.**

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

   Motion Carried

5. **ZBA BUSINESS**

   A. **AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024**
      (Postponed from 8/8/2022 & 10/10/2022 meetings)

   Chairman Durham read the petitioners request as follows:
Charter Township of Orion Zoning Board of Appeals Minutes  
Regular Meeting – December 12, 2022

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

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

Mr. Adam Martin introduced himself and asked to be postponed until the second meeting in February 2023.

Chairman Durham asked if they are doing the proper thing by loading the case dockets with items that won’t move and use spots that could be used by other residents who now cannot be on the agenda because they are full.

Board member Dunaskiss stated that this petitioner could not go out past 60 days so that is why they are at this meeting. For this case, they did not choose to be on this agenda but because of the Township’s rules, they were put on tonight’s agenda.

Vice-chairman Cook stated that when Mr. Martin appeared before the Board at the prior meeting, he did want a later meeting.

Chairman Durham reiterated his question as to whether the agenda for the second meeting in February would be clogged up for another person that wants to come in if they move all of these cases to that meeting.

Vice-chairman Cook answered yes. In this case, it is such a unique situation because they are waiting for the Homeowner’s Association response but he agrees that it does clog up the case log, but there are mitigating circumstances.

Trustee Flood asked why they want to postpone until February.

Mr. Martin stated that they believe they have a practical difficulty, but it is not the most ideal one. They are trying to work with the individuals that they were asked to work with. They want to see this go through the proper channels and find a solution to not just this, but a couple of other things that have come up during conversations. They do not want to lose what little bit they have by requesting it and potentially having it denied. They have already agreed that if they go into February, they will not postpone further. They will present the practical difficulty and leave it up to the Board.

Trustee Flood asked if he has had time to discuss this with the HOA.

Mr. Martin stated that there were two conversations and they have been brief. More questions have come up than answers during each of these conversations.

Vice-chairman Cook asked if during the conversations with the HOA, has it been for an overall solution or for these individual lots.

Mr. Martin replied both. The question has come up if this should be offered to everyone that meets the main road. The question has come up if they are even allowed to change the plan for their neighborhood as per the by-laws.

Board member Walker stated that he has found this entire fence dilemma the most disconcerting thing that he has ever dealt with on this Board, and he explained. He agrees with the postponement.

Trustee Flood stated that the motion should state that this will be the last appearance before the Board in February if this request is granted.
Charter Township of Orion Zoning Board of Appeals Minutes  
Regular Meeting – December 12, 2022

Chairman Durham asked Mr. Martin if he also speaks for Mr. Backus and Mr. Humbert regarding the postponement.

Mr. Martin stated that he has not talked to Mike Humbert, and Ken Backus is still in Florida dealing with a situation. He can only speak for Ken and himself.

Chairman Durham asked for public comment.

No public comment was heard.

Board member Dunaskiss moved, seconded by Board member Walker, that in the matter of AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024, the petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east and a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west be postponed per the Petitioner’s request until a date certain with that date being February 13, 2023.

Roll Call Vote was as follows: Dunaskiss, yes; Cook, yes; Walker, yes; Flood, yes; Durham; no  
Motion passes 4-1.

B. AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013  
(Postponed from 8/8/2022 & 10/10/2022 meetings)

Chairman Durham read the petitioner’s request as follows:

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

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

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

Petitioner was not present.

Vice-chairman Cook asked if there was any communication from the applicant. He asked Mr. Martin if Mr. Backus asked Mr. Martin to represent him.

Mr. Martin replied yes. At the close of the last meeting, they had a conversation about representing him. He understands that the Board probably wants something in writing verifying this though.

Chairman Durham replied that he does not know.

Ms. Harrison concurred with Mr. Martin. The Township should be provided something in writing.

Board member Walker stated they postponed the last case because the Petitioner asked them to. No one for this case is asking the Board to postpone.

Chairman Durham asked Ms. Harrison if it would be improper for the Board to act. Ms. Harrison stated that the Board can act either way. They can postpone or make a decision on the case.
Board member Dunaskiss stated that because at the previous meeting when the group appeared, they were only setting the date for tonight because they could not set a date in 2023 yet. It is her feeling that the other two Petitioners are assuming that this is why they are on the agenda tonight, to postpone, because that is what they said they were going to do. They have done this in the past.

Chairman Durham commented on the postponement.

Chairman Durham asked for public comment.

No public comment was heard.

Vice-chairman Cook moved, seconded by Board member Dunaskiss, in the matter of ZBA Case # AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 that the petitioner’s request be postponed until the February 13, 2023 meeting in light of the petitioner originally asking that he be postponed until the second meeting in February 2023 at his previous appearance.

Roll Call Vote was as follows: Flood, yes; Walker, no; Cook, yes; Dunaskiss, yes; Durham; yes. Motion passes 4-1.

C. AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012
(Postponed from 8/8/2022 & 10/10/2022 meetings)

Chairman Durham read the petitioners request as follows:

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

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

Vice-chairman Cook stated that this case is unique because this petitioner did not come to the previous meeting on October 10, 2022, although he did come to the August 8, 2022 meeting. The petitioner is not present at tonight’s meeting and no correspondence was received.

Chairman Durham asked Vice-chairman Cook why this Petitioner was postponed in October.

Vice-chairman Cook replied that he does not know because he did not attend that meeting. The minutes of the October 10, 2022 meeting reflect that this Petitioner did not attend.

Vice-chairman Cook moved, seconded by Trustee Flood supported, that in the matter of ZBA case AB-2022-32, Mike Humbert, 2917 Walmsley Circle, 09-20-452-012 that the petitioner’s request for three variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) including a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east and a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case and that they set forth facts that show:
1. The petitioner has not presented any practical difficulties the initial two times that this case was before the board and postponed, nor is he present tonight.

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

3. The petitioner has not presented anything that shows that the variances are necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity.

4. The petitioner has not presented any information relating to congestion, danger or any other thing that might be able to allow the Board to vote on this case. The primary reason for presenting this is that the Petitioner was not at the previous meeting on October 10, 2022 nor are they here on December 12, 2022. No notice was provided, no representation was granted to any other individual to represent them.

Roll Call Vote was as follows: Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham; no. Motion passes 4-1.

D. AB-2022-50, Jonathon & Allison Iversen, 481 Parkview Ct., 09-12-376-002

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78

Article VI, Section 6.04 - Zoned R-1

1. A 7.1-ft. front yard setback variance from the required 40-ft. for an attached garage to be 32.9-ft. from the front property line.

Mr. Jon Iverson and Ms. Allison Iverson introduced themselves to the Board and summarized the variance request. He stated reasons why he feels his case qualifies for the variance. They are trying to match the existing front of their house. The front of their house is already within the 40 foot setback. They considered another design for the new addition that would be within the setback and found the design to be uninspired. They spoke to the neighbors around them and the neighbors are on board with the plan. They live on a private road which is an easement itself.

Chairman Durham thanked the Petitioner for putting pink flags up to identify the proposed area. What the Petitioner wants to do is minor and will have little effect on other people. The Fire Marshall has looked at the plan and has no issues with it.

Board member Walker stated that this is the first time he has visited this area. There was no variance received for the home and this is not increasing an already existing non-conformity.

Vice-chairman Cook asked if the petitioner had recently had the property surveyed.

Mr. Iverson replied yes. He commented that the property is shaped like a trapezoid and he meant to point that out.

Vice-chairman Cook asked if the neighbor with the greenhouse had to get a variance.

Trustee Flood stated that he also appreciated the flags placed on the property. He stated that he likes the fact that the petitioner is not making it more nonconforming. He asked about the proposed attached garage.
Mr. Iverson stated that the new attached garage would match the existing front of the house and he commented on the placement of the house on the property.

Vice-chairman Cook asked if the petitioner had considered locating the structure 10 feet back on the concrete pad.

Mr. Iverson replied that they would need to put a new driveway down anyway and he doesn’t like the idea of the garage being flush with the back of the house.

Chairman Durham asked for public comment.

No public comment was heard.

Board member Walker moved, seconded by Trustee Flood, that in the matter of Case AB-2022-50, Jonathon & Allison Iverson, 481 Parkview Ct., 09-12-376-002, that the petitioners’ request for 1 variance from Zoning Ordinance #78, Article VI, Section 6.04 - Zoned R-1 for a 7.1-ft. front yard setback variance from the required 40-ft. for an attached garage to be 32.9-ft. from the front property line be approved because the petitioner did demonstrate that the follow standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty: it is due to the unique characteristics of the property. In addition, the existing footprint is practically the same footprint as the home footprint. The petitioner is changing the existing garage into a living space and adding the new garage.

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

3. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire or reasonably diminish or impair established property values within the surrounding area.

This application was date stamped received on November 8, 2022.

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

E. AB-2022-51, General Motors Orion Assembly, 4555 Giddings Road, 09-34-200-006 & 09-34-400-011

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned IC Article XIX, Section 19.04

1. A 5-ft. height variance from the maximum height of 120-ft. for structures to be 125-ft. tall.

Justin Brooks, representing Wade Trim, introduced himself to the Board as appearing on behalf of General Motors. He summarized the variance request for stacks to be placed at the GM Orion Assembly Plant.

Vice-chairman Cook asked if Mr. Brooks worked at a Flint Plant for Wade Trim.

Mr. Brooks replied no.

Vice-chairman Cook stated that he wanted to make sure there was no conflict of interest.
Mr. Brooks continued summarizing the variance request for the proposed stacks.

Chairman Durham confirmed that the EPA is requiring the stacks to be placed.

Board member Walker stated that the Planning Commission denied the site plan approval pending granting or denial of this variance. The Township Planner has signed off on everything else. This is being required by the EPA.

Vice-chairman Cook asked if there would be two RTO’s in the facility.

Mr. Brooks replied yes.

Trustee Flood stated that they already have a 250 foot smoke stack on the property attached to the power house and these two proposed stacks will be ⅔ the size. They also have to get permission from the FAA for anything over 70 feet.

Vice-chairman Cook asked what was unique regarding the air modeling.

Mr. Gary Jensen, Walbridge, introduced himself as Design Manager for the project. Mr. Jensen described the air modeling for the project.

Trustee Flood reiterated that if this variance is approved, the amended site plan is already approved and they do not have to go back to the Planning Commission.

Board member Walker answered yes; there are also some administrative matters that still need to be worked out.

Vice-chairman Cook moved, seconded by Trustee Flood, that in the matter of Case AB-2022-51, General Motors Orion Assembly, 4555 Giddings Road, 09-34-200-006 & 09-34-400-011, that the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned IC, Article XIX, Section 19.04 for a 5-ft. height variance from the maximum height of 120-ft. for structures to be 125-ft. tall be granted because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: this is a unique piece of property in addition to the fact that the petitioner is meeting safety standards that the height of 125 feet is necessary for the two stacks.

2. The following are unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: this is a piece of property that is 455 acres total in that it is a manufacturing facility that is unique in its own right.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: the owner is trying to utilize the property for what it was purchased for many years ago.

4. Granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the fact that the petitioner has been in contact with the EPA, FAA, the Planning and Zoning Board in the Township as well as the State of Michigan.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties due to the positioning of the factors away from any residential and/or other commercial properties. The variance will not increase congestion in public streets. There is also not going to be an increase
of fire or endanger public safety, or unreasonably diminish property values in the surrounding areas.

This application was date stamped received November 14, 2022.

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

6. PUBLIC COMMENTS

Trustee Flood moved, seconded by Board member Dunaskiss, to cancel the January 9, 2023 Zoning Board of Appeals meeting due to a lack of agenda items.

Motion Carried

7. COMMUNICATIONS

Chairman Durham commented on the upcoming Annual Holiday Party on December 14, 2022.

Trustee Flood commented on the appointment of a new Treasurer to replace Donnie Steele.

8. COMMITTEE REPORTS

Trustee Flood stated that there was nothing further from the Fence Ad Hoc Committee.

9. MEMBER COMMENTS

Board Members wished everyone a happy holiday.

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 7:54 pm.

Motion Carried

Respectfully submitted,

Erin A. Mattice
Recording Secretary
TO: The Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: January 30, 2023
RE: Case location for ZBA Meeting 2/13/2023

Below is the location for the ZBA case for the February 13, 2023 meeting.
MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: January 30, 2023
SUBJECT: Staff Report for AB-2022-30, Adam Martin, 2936 Saturn Dr.

The applicant is proposing to add a 6-ft. fence along the property line that borders Waldon Road. The case was originally presented at the August 8, 2022, ZBA meeting and was postponed to October 10, 2022, and again to the December 12, 2022, meeting. It was then postponed to this meeting. The minutes from the December 12, 2022, meeting are attached under item 4.A. for your approval.

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

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: July 28, 2022


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

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

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

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

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

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

Please be specific how the petitioner meets these criteria

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

_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________

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

_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________

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

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

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

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

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

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

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

3. The variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts:
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:
The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 10, 2022, at 7:02 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

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

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

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

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

2. **ROLL CALL**

3. **MINUTES**

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

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

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

4. **AGENDA REVIEW AND APPROVAL**

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

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

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

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

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

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78

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

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

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

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

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

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

Trustee Flood concurred.

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

Mr. Smilanic explained the location of the elevator doors.

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

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

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

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

Mr. Smilanic replied no.

Board member Van Tassel asked about the water source.

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

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

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

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

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

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

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

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

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

Mr. Riddle answered yes.

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

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

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

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

Chairman Durham asked for public comment.

No public comment was heard.

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

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

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: this lake lot is very difficult as it relates to its elevation, also, street access is limited to all of the houses on the street.

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Durham read the petitioner’s request as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Durham read the petitioner’s request as follows:

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

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

No petitioner was present.

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

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

6. ______ PUBLIC COMMENTS

7. ______ COMMUNICATIONS

8. ______ COMMITTEE REPORTS
9. MEMBER COMMENTS

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

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

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

10. ADJOURNMENT

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

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

Respectfully submitted,

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

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

**ZBA MEMBERS ABSENT:**
None

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

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

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

2. **ROLL CALL**

3. **MINUTES**

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

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

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

4. **AGENDA REVIEW AND APPROVAL.**

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

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

5. **ZBA BUSINESS**

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78 – Zoned R-2
Charter Township of Orion Zoning Board of Appeals Minutes  
Regular Meeting – August 8, 2022

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

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

Mr. Ted Adams and Christi Adams introduced themselves.

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

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

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

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

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

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

Chairman Durham asked how 2 more feet would help.

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

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

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

Ms. Adams explained that she was afraid of repercussions.

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

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

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

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

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

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

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

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

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

Chairman Durham asked for public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. Adams replied no.

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

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

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

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

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

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

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

Trustee Flood replied the Township Board.

Chairman Durham explained the options to the petitioners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Durham asked for final comments.

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

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

Mr. Ken Backus introduced himself.

Chairman Durham explained the options for the petitioner.

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

Chairman Durham asked for public comment.

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

Trustee Flood asked if they should contact Building Official Goodloe.

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

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

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

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

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

Ms. Baker explained her property difficulties.

Building Official Goodloe suggested that the petitioner put this all together and come back. None of the practical difficulties were on the application. He suggested that the petitioner look at the uniqueness of their properties.
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – August 8, 2022

Building Official Goodloe suggested that the applicants read the minutes from the meetings where the fences were approved. This Board can only look at what they are presented in the application and what they are presenting here. The Board can only vote on what goes with the land.

Chairman Durham explained the options to the applicant.

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

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

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

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

Trustee Flood asked who owns the road right of way.

Building Official Goodloe replied that he doesn’t know.

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

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

Chairman Durham asked for public comment.

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

Ms. Baker reiterated her safety concerns.

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

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

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

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

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

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

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

7. **COMMUNICATIONS**

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

8. **COMMITTEE REPORTS**

9. **MEMBER COMMENTS**

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

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

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

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

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

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

10. **ADJOURNMENT**

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

Motion Carried (5-0)

Respectfully submitted,

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

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

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

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

APPLICANT

Name: Adam Martin

Address: 2936 Saturn Dr City/State/Zip: Lake Orion, MI 48360

Phone: (248) 499-9376 Cell: (248) 875-6007 Fax: 

Email: adam.martin@premierav.net

PROPERTY OWNER(S)

Name(s): Adam & Lori Martin

Address: 2936 Saturn Dr City/State/Zip: Lake Orion, MI 48360

Phone: (248) 499-9376 Cell: (248) 875-6007 Fax: 

Email: adam.martin@premierav.net

CONTACT PERSON FOR THIS REQUEST

Name: Adam Martin Phone: (248) 875-6007 Email: adam.martin@premierav.net

SUBJECT PROPERTY

Address: 2936 Satrun Dr. Lake Orion, MI 48360 Sidwell Number: 09-20-453-024

Total Acreage: 0.32 Length of Ownership by Current Property Owner: 14 Years, 1 Months

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

Zoning Ordinance Allowance/Requirement 4' Fence Deviation requested 6' Fence
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.

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

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

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

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

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

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

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

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

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

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

N/A

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

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

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

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

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

Signature of Applicant: ____________________________ Date: 06-21-2022
Print Name: Adam W. Martin

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

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

OFFICE USE ONLY

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

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

Description of variance(s):

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

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

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

Date: 06-01-2022

KHA-Architectural Control Committee
Proposal submitted by:
Name  Adam W. Martin
Address  2936 Saturn Dr. Lake Orion MI 48360
Phone  (248) 875 - 6007

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

Action of Committee:

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

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

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

For a Better Community
KHA-Architectural Control Committee

By:

KHA ACC Chairperson
Article XXVII  General Provisions

27.05 Landscaping, Fences and Walls

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

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

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

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

H. Residential Fence and Wall Regulations.

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

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

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

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

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

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

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

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

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

Revised 05/21/20

Charter Township of Orion Zoning Ordinance 78  Page 27 - 35
Article XXVII

27.01 Nonconformities

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 – Buildings, Structures, and Uses

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

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

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

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

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

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

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

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

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

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

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

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

TO: Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: January 30, 2023

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

The applicant is proposing to add a 6-ft. fence along portions of his property. The case was originally presented at the August 8, 2022, ZBA meeting and was postponed to the October 10, 2022, meeting, and again to the December 12, 2022, meeting. It was then postponed to this meeting. The minutes from the December 12, 2022, meeting are attached under item 4.A. for your approval.

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

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: August 1, 2022

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

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

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

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

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

APPROVAL OF A NON-USE VARIANCE

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

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

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

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

Please be specific how the petitioner meets these criteria

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

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

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

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

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

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

3 variances from Zoning Ordinance 78 – Zoned R-2

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

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

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

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

Please be specific how the petitioner does not meet these criteria be denied because the petitioner did not demonstrate that the following standards for variances have been met in this case:

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

52
4. The granting of the variance or modification will be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings:

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

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

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

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

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

5. Or, In any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to:
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – October 10, 2022

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, October 10, 2022 – 7:00 PM

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

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

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

CONSULTANT PRESENT:
David Goodloe, Building Official

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

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

2. ROLL CALL

3. MINUTES

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

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

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

4. AGENDA REVIEW AND APPROVAL.

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

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

5. ZBA BUSINESS
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – October 10, 2022

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

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

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

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78

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

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

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

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

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

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

Trustee Flood concurred.

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

Mr. Smilanic explained the location of the elevator doors.

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

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

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

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

Mr. Smilanic replied no.

Board member Van Tassel asked about the water source.

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

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

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

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

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

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

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

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

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

Mr. Riddle answered yes.

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

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

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

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

Chairman Durham asked for public comment.

No public comment was heard.

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

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

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: this lake lot is very difficult as it relates to its elevation, also, street access is limited to all of the houses on the street.

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Durham read the petitioner’s request as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Durham read the petitioner’s request as follows:

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

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

No petitioner was present.

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

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

8. COMMITTEE REPORTS
9. MEMBER COMMENTS

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

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

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

10. ADJOURNMENT

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

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary
CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, August 8, 2022 – 7:00 PM

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

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

ZBA MEMBERS ABSENT:
None

CONSULTANT PRESENT:
David Goodloe, Building Official

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

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

2. ROLL CALL

3. MINUTES

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

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

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

4. AGENDA REVIEW AND APPROVAL.

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

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

5. ZBA BUSINESS

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

Chairman Durham read the petitioners request as follows:

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

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

Mr. Ted Adams and Christi Adams introduced themselves.

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

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

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

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

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

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

Chairman Durham asked how 2 more feet would help.

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

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

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

Ms. Adams explained that she was afraid of repercussions.

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

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

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

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

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

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

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

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

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

Chairman Durham asked for public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. Adams replied no.

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

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

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

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

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

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

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

Trustee Flood replied the Township Board.

Chairman Durham explained the options to the petitioners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Durham asked for final comments.

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

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned R-2
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – August 8, 2022

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

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

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

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

Mr. Ken Backus introduced himself.

Chairman Durham explained the options for the petitioner.

Trustee Flood asked if the Homeowner’s Association will address this. The fences are the Association’s boundary lines and are the Homeowners Association’s problem.
Charter Township of Orion Zoning Board of Appeals Minutes  
Regular Meeting – August 8, 2022  

Board member Dunaskiss moved, and Trustee Flood supported, in the matter of ZBA Case AB-2022-31, Ken Backus, 2911 Walmsley Circle Dr., 09-20-452-013 that this request, at the petitioner’s request, be postponed until October 10, 2022.

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

Chairman Durham read the petitioners request as follows:

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

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

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

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

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

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

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

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

Chairman Durham asked for public comment.

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

Trustee Flood asked if they should contact Building Official Goodloe.

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

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

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

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

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

Ms. Baker explained her property difficulties.

Building Official Goodloe suggested that the petitioner put this all together and come back. None of the practical difficulties were on the application. He suggested that the petitioner look at the uniqueness of their properties.
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – August 8, 2022

Building Official Goodloe suggested that the applicants read the minutes from the meetings where the fences were approved. This Board can only look at what they are presented in the application and what they are presenting here. The Board can only vote on what goes with the land.

Chairman Durham explained the options to the applicant.

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

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

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

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

Trustee Flood asked who owns the road right of way.

Building Official Goodloe replied that he doesn’t know.

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

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

Chairman Durham asked for public comment.

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

Ms. Baker reiterated her safety concerns.

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

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

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

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

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

Roll call vote was as follows: Dunaskiss, yes; Cook, yes; Flood, yes; Walker, yes; Durham, yes. Motion passes 5-0.
Charter Township of Orion Zoning Board of Appeals Minutes
Regular Meeting – August 8, 2022

6. PUBLIC COMMENTS

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

7. COMMUNICATIONS

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

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

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

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

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

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

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

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

10. ADJOURNMENT

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

Motion Carried (5-0)

Respectfully submitted,

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

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

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

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

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

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

CONTACT PERSON FOR THIS REQUEST
Name: Ken Backus Phone: 248.464.9912 Email: bkenback@aol.com

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

Page 2 of 4
Case #: __________________________

RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature of Applicant: ___________________________ Date: 06/15/2022
Print Name: _____________________________________

Signature of Property Owner: ______________________ Date: 06/15/2022
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: ___________________________
KEATINGTON HOME OWNERS' ASSOCIATION

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

Date: 06/01/2022

KHA-Architectural Control Committee

Proposal submitted by:
Name: Ken Backus
Address: 2911 Walmsley Circle, Lake Orion, MI 48360
Phone: 248.464.9912

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

Action of Committee:

☑ Accept Proposal as Submitted

Accept Proposal with Exceptions as Noted

Proposal Incomplete - Requires Additional Information - See Below

Reject Proposal - Against Township Zoning Regulations - See Below

Reject Proposal - Against Subdivision Deed Restrictions - See Below

Other- See Below

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

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

For a Better Community
KHA-Architectural Control Committee

By:

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

K. Administrative Nonconformities.

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

L. Change in Tenancy or Ownership.

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

M. Special Exceptions.

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

Section 27.02 - Buildings, Structures, and Uses

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

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

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

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

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the applicable zoning district of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of the 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.

Charter Township of Orion Zoning Ordinance 78
Revised 05/21/20
Page 27 - 35
The fire department has reviewed the 5 attached cases and has no concerns at this time.

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

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

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

Debra Walton
Clerk
Planning & Zoning
2323 Joslyn Road, Lake Orion, MI 48360
O: 248.391.0304, ext. 5002
W: www.oriontownship.org
Charter Township of Orion  
Planning Division  
2323 Joslyn Rd., Lake Orion MI 48360  
P: (248) 391-0304 ext. 5001; Fax (248) 391-1454

MEMORANDUM

TO: Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: January 26, 2023
SUBJECT: Staff Report for AB-2023-01, Ricardo Skakal, 540 N. Newman

The applicant is proposing to build a 2,400-sq. ft. pole barn on his property.

The property is over 7 acres:

- The applicant’s plans show that all setbacks will be met
- That the addition of a pole barn will not exceed the maximum lot coverage of 20%
- There will be no second floor storage
- The proposed pole barn will not be taller than the house
- And, the applicant addressed the concern by the Fire Marshal about access to the property – I understand the applicant was in contact with the Fire Marshal and informed him that the “gates” are always open

The only variances the applicant will need is for maximum floor area of all detached accessory buildings and maximum floor area of all accessory buildings.

Please note that there is an existing 480-sq. ft. detached garage and a 312-sq. ft. carport on the property that the applicant will be removing and is not part of the maximum floor area calculations.

If you grant the variance or modify it, I suggest you include in the motion that approval is based on the detached garage and carport being removed and that approval is for plans date stamped received 1/6/2023.

Please contact me if you have any questions.
MOTION OPTIONS

TO: Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Specialist
DATE: January 26, 2023
RE: AB-2023-01, Ricardo Skakal, 540 N. Newman

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

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

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

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

In this case, I suggest if there is a motion to approve, it be conditioned upon the applicant removing the detached garage and the carport and that is approval is for plans date stamped January 6, 2023.

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

In the matter of ZBA case # AB-2023-01, Ricardo Skakal, 540 N. Newman, 09-04-126-011, I move that the petitioner’s request for:

2 variances from Zoning Ordinance #78 – Zoned SE

Article XXVII, Section 27.02(A)(8)

1. A 1,000-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to build a 2,400-sq. ft. pole barn.

2. A 1,912-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 2,400-sq. ft. pole barn in addition to an existing 1,412 attached garage.

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

Please be specific how the petitioner meets these criteria

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

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

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

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

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

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

DENIAL OF A NON-USE VARIANCE

In the matter of ZBA case # AB-2023-01, Ricardo Skakal, 540 N. Newman, 09-04-126-011, I move that the petitioner’s request for:

2 variances from Zoning Ordinance #78 – Zoned SE

Article XXVII, Section 27.02(A)(8)

1. A 1,000-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to build a 2,400-sq. ft. pole barn.

2. A 1,912-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 2,400-sq. ft pole barn in addition to an existing 1,412 attached garage.

Please be specific how the petitioner does not meet these criteria

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

1. The petitioner did not demonstrate Practical Difficulty because:

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

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

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

86
Further, based on the following findings of facts, the granting of this variance would:

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

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

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

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

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

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

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

   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

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

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

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

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

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

APPLICANT
Name: Ricardo Skakal

Address: 640 N. Newman Rd
City/State/Zip: Lake Orion, MI 48362

Phone: N/A
Cell: 248-761-1535
Fax: N/A

Email: RS8900@gmail.com

PROPERTY OWNER(S)
Name(s): Same as above

Address: 
City/State/Zip: 

Phone: 
Cell: 
Fax: 

Email: 

CONTACT PERSON FOR THIS REQUEST
Name: Ricardo Skakal
Phone: 248-761-1535
Email: RS8900@gmail.com

SUBJECT PROPERTY
Address: 540 N. Newman Rd, Lake Orion, MI 48362
Sidwell Number: 09-04-126-011

Total Acreage: 7.275 acres
Length of Ownership by Current Property Owner: 12 Years, 8 Months

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

Zoning Ordinance
Allowance/Requirement: 27.02(A)(8) Buildings, Structures, and Uses

Deviation request:
1) Max assy detached building +1000 ft sq
2) Max assy detached buildings 1400 ft sq
3) Total max area assy buildings 1900 ft sq

Page 2 of 4
RESIDENTIAL VARIANCE

1. Describe in detail the nature of the request. Seeking 2 variance from Article XXVII, 27.02(8) – Lot size over 2.5 acres to build 2400-sq. ft. pole barn

   1) A 1000-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings
   2) A 1912-sq. ft. variance above the allowed 1,900-sq. ft. maximum area of all accessory buildings

   Intention is to remove existing 752-sq. ft. detached garage w/carport and replace with pole barn of sufficient size to store property maintenance equipment and travel trailer inside weatherproof structure. Equipment has been stored outside year around but is deteriorating due to the elements and wildlife. Steel machinery is rusting away and squirrels & mice are chewing up anything they can get access to like wiring, seats, RV wires, lines, etc.

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 7.275 acres. The current ordinance indicates up to 2.5 acres a 1400-sq. ft. detached accessory building is allowed which equates to ~1.28% lot coverage. In this case, the property is almost 3x times larger than the maximum size specified, and the requested variance will result in a total accessory detached building coverage of less than 1%. Additionally, the property has a pine forest next to the driveway and trees regularly fall blocking the entrance which require removal using the equipment stored on site.

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 variance will not exceed 20% lot coverage and will not encroach on any setbacks. The proposed structure will be located near the end of a 500+ ft driveway 100% obscured from public view. It will be surrounded by an existing pine forest and not be visible by neighbors or the street. It will not impair an adequate supply of light and air to adjacent properties due to the parcel size. It will not increase congestion on streets or increase danger of fire or risk to public safety. It will not diminish property values and or impair public health, safety, comfort, moral or welfare of the inhabitants of Orion Township in any way. It will improve the existing property value.

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

   1) The 7.275 acre parcel size is not consistent with others in the immediate area. Most parcels are between 1 and 4 acres.
   2) Detached accessory buildings are consistent with the character of the neighborhood. Many have detached buildings of varying sizes.

      Examples of moderate to large sized pole barns in the area include:
      • 492 N Newman Rd (next door neighbor) ~40x40 pole barn near the rear of the property
      • 2340 Indiantown – large horse barn
      • 90 Creekwood Dr, Lake Orion, Mi

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

   The current ordinance covers properties up to 2.5 acres with a total maximum accessory building coverage of 1900-sq. ft. or ~1.7% total. In this case, the property is approximately 3x the current regulation. The requested variance will result in ~1.2% total accessory building coverage.

6. The topography of said land makes the setbacks impossible to meet because: No setback issues

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

   The property is one of the larger parcels in the area. A variety of maintenance equipment is required to maintain the property year round. The lot is heavily wooded and large equipment is needed to remove snow and take care of downed trees that fall into the driveway and sometimes the street. As an example, a tree fell several weeks ago one evening that blocked the driveway. My wife was unable to return to the house so she called me and I was able to quickly move it out of the way with the skidsteer. Without this equipment onsite, her vehicle would have been stuck near the street and no vehicles could leave until somehow the tree was removed.
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: 12/22/2022

Print Name: Ricardo Skakal

Signature of Property Owner: ____________________________  Date: 12/22/2022

Print Name: Ricardo Skakal

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

OFFICE USE ONLY

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

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

Description of variance(s):

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

Date Filed: ____________________________  Fee Paid: ____________________________  Receipt Number: ____________________________
Article XXVII  General Provisions

27.02 Buildings, Structures, and Uses

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

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

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

8. The total of all accessory buildings or structures in a single-family residentially zoned district or on a parcel used for a single-family dwelling, except as modified in Paragraph 9, shall not exceed the following:\n
<table>
<thead>
<tr>
<th>LOT SIZE</th>
<th>MAXIMUM FLOOR AREA OF DETACHED ACCESSORY BUILDINGS</th>
<th>MAXIMUM FLOOR AREA OF ATTACHED ACCESSORY BUILDINGS</th>
<th>TOTAL MAXIMUM FLOOR AREA OF ALL ACCESSORY BUILDINGS *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1/2 acre</td>
<td>750 sq. ft.</td>
<td>75% of the principal structure</td>
<td>1,150 sq. ft.</td>
</tr>
<tr>
<td>1/2 to 1 acre</td>
<td>900 sq. ft.</td>
<td></td>
<td>1,300 sq. ft.</td>
</tr>
<tr>
<td>1 to 2.5 acres</td>
<td>1,000 sq. ft.</td>
<td></td>
<td>1,500 sq. ft.</td>
</tr>
<tr>
<td>Over 2.5 acres</td>
<td>1,400 sq. ft.</td>
<td></td>
<td>1,900 sq. ft.</td>
</tr>
</tbody>
</table>

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

9. The total area of all accessory buildings or structures on a single-family residitionally zoned parcel shall not exceed the above noted area, except in the following cases after consideration and approval by the Zoning Board of Appeals:

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

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

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

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

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

b. On parcels of more than five (5) acres in size used for agricultural purposes, a variance may be sought from the Zoning Board of Appeals to permit additional accessory buildings or structures for the purpose of storing agricultural implements, equipment, products, livestock, and similar items.

Revised 05/21/20

Charter Township of Orion Zoning Ordinance '78  Page 27 - 11
AB-2623-01  Ricardo SkaKali, 540 N. Newman
7.275 Acres  316,899 sq  20% = 63,379.8 sq
09-04-126-011 Zoned SE

Addition of a 2,400 sq Pole Barn

Setbacks
Front 40 ft will be 250'  ok
Rear 10 ft (accessory structure) 85'  ok
Side 20 ft will be 275'  & 225'  ok
Height at mid-point 21'  House 25'  ok

No Second Floor storage

Lot Coverage
House 2542
Porch 330
Deck 345
Attached garage 1,412
Detached garage 480 removing make sure part of house
Carport 342 removing make sure part of house
Proposed Pole Barn 2,400

7,029 # Lot coverage OK

No prior variances found

All detached accessory structures 1,400
All Accessory structures 1,900
Proposed Pole Barn 2,400
Attached garage 1,412
Proposed Pole Barn variance 1,000

3,812

Variance 1,912
540 N. Newman Rd, 09-04-126-011
Zoned SE 7.275 acres = 316,899-sq. ft.
20% = 63,380-sq. ft.
Front setback = 250'
Rear setback = 85'
Side setback = 223'

House 1st floor footprint = 2012.5-sq. ft.
Attached garage = 1412-sq. ft.
Detached garage = 480 + 312-sq. ft.
Pool = 576-sq. ft.
Back porch = 330-sq. ft.
Total lot coverage existing = 5,112.5-sq. ft = 1.6%
Total coverage with variance = 6720.5-sq. ft = 2.1%

Maximum area of detached accessory structures allowed = 1400-sq. ft.
- Proposed pole barn = 2400-sq. ft.
  Allowed = 1400-sq. ft.
  Variance = 1000-sq. ft.

Maximum area of all accessory structures allowed = 1900-sq. ft.
- Attached garage = 1412-sq. ft.
- Proposed pole barn = 2400-sq. ft.
  Total = 3812-sq. ft
  Allowed = 1900-sq. ft.
  Variance = 1912-sq. ft.
How to recall and purchase your design at home:
1. On Menards.com, enter "Design & Buy" in the search bar
2. Select the Residential Post Frame Designer
3. Recall your design by entering Design ID: 335156038948
4. Follow the on-screen purchasing instructions

How to purchase your design at the store:
1. Enter Design ID: 335156038948 at the Design Center Kiosk in the Building Materials Department
2. Follow the on-screen purchasing instructions

Residential Post Frame Image
Dimensions

Wall Configurations

*Illustration may not depict all options selected

ENDWALL B
- Ideal Door & Monitor: Commercial 12' x 14' White Insulated
- Ideal Door & Reg: Traditional 10' x 10' White Insulated
- Ideal Door & Reg: Traditional 10' x 10' White Insulated

SIDEWALL D
- Mastercraft & Reg: 36'W x 8'H Primed Steel 6-Panel
RECEIVED

JAN 6 2023

Residential Post Frame

Orion Township Planning & Zoning

Design & Buy
RESIDENTIAL POST FRAME

Date: 12/20/2022 - 10:45 PM
Design Name: RPF Design
Design ID: 335156038948
Estimated Price: $45,502.32

*Today's estimated price. Future pricing may go up or down. Tax, labor and delivery not included.

SIDEWALL C

ENDWALL A

23'
16'
40'
60'

*Some items like wainscot, gutter, gable accents, are not displayed if selected.

For other design systems search "Design & Buy" on Menards.com
Pole Barn – Equipment Storage Study 40’x60’
Debra Walton

From: Jeff Williams  
Sent: Wednesday, January 18, 2023 11:38 AM  
To: Debra Walton  
Subject: RE: Residential ZBA Documents for the February 13, 2022, ZBA Meeting

From my understanding yes.

The entire yard is fenced in and has a gate at Newman Road.

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

From: Debra Walton <dwalton@oriontownship.org>  
Sent: Wednesday, January 18, 2023 11:33 AM  
To: Jeff Williams <jwilliams@oriontownship.org>  
Subject: RE: Residential ZBA Documents for the February 13, 2022, ZBA Meeting

Hi Jeff,

Is there a gate?

Thanks,

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

From: Jeff Williams <jwilliams@oriontownship.org>  
Sent: Wednesday, January 18, 2023 11:26 AM  
To: Debra Walton <dwalton@oriontownship.org>  
Subject: RE: Residential ZBA Documents for the February 13, 2022, ZBA Meeting

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

It is our recommendation that the homeowner contact the fire department to discuss site access in the event of an emergency if the gates are closed on a regular basis.
TO: The Charter Township of Orion Zoning Board of Appeals

FROM: Lynn Harrison, Planning & Zoning Specialist

DATE: January 26, 2023

RE: 2022 Annual Report

Attached is the Annual Report for 2022.

Please review it prior to the meeting and let me know if you have any questions or concerns.

The report needs to be received and filed by you and forwarded to the Township Board by their last meeting in February which is February 21st.

If you feel appropriate, the motion would be: I move to receive and file the 2022 Zoning Board of Appeals Annual Report and forward a copy to the Board of Trustees.
In 2022 the Zoning Board of Appeals held 19 regular meetings with a total of 52 cases. Of those 52 cases: 39 pertained to Zoning Ordinance No. 78, 1 to Ordinance 99 Earth Balancing & Excavating, and 9 to Sign Ordinance No. 153, 1 Temporary Use Permit, and 2 ZBA By-Law Amendments. Also, of the 52 cases – 3 cases were withdrawn.

The 23 Zoning Ordinance No. 78 cases resulted in the following number of requests:
34 Building Structure Setback Variances
4 Maximum Floor Area of Detached Accessory Building Variances
6 Maximum Floor Area of All Accessory Buildings Variances
4 Maximum Lot Coverage Variances
2 75% of Principal Structure Variances
14 Setback Variances for: Porches (2), Decks (1), and 6- ft. Fences (11)
3 Building Height Variances
1 Temporary Use Permits for Seasonal Sales
11 Miscellaneous (1 corner clearance variance, 2 covered trash receptacle variances, 2 accessory/outdoor storage variances, 2 ZBA Expiration extension requests, 2 ZBA By-Law Amendments, and 2 interior landscape variances

The 1 Ordinance 99 Earth Balancing and Excavation cases resulted in the following:
1 Permit renewals (Dan’s Excavating)

The 9 Sign Ordinance 153 cases resulted in the following number variance requests:
10 Ground Sign Square Footage Variance
3 Number of Wall Signs Variances
6 Right-of-Way Setbacks Variances
0 Wall Sign Square Footage Variances
2 EMC Requirements
9 Ground Sign Height Variance
1 Number of Ground Signs Variances
### Zoning Board of Appeals Members

<table>
<thead>
<tr>
<th>Name</th>
<th>Term Expiration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dan Durham, Chairman</td>
<td>12/31/2023</td>
</tr>
<tr>
<td>Tony Cook, Vice-Chairman</td>
<td>12/31/2022</td>
</tr>
<tr>
<td>Mike Flood, Board Rep.</td>
<td>11/20/2024</td>
</tr>
<tr>
<td>Don Walker, PC Rep.</td>
<td>12/31/2023</td>
</tr>
<tr>
<td>Diane Dunaskiss, Board Member</td>
<td>12/31/2024</td>
</tr>
<tr>
<td>Alternate: James Kerby</td>
<td>12/31/2023</td>
</tr>
<tr>
<td>Alternate: JoAnn Van Tassel</td>
<td>12/31/2023</td>
</tr>
</tbody>
</table>

### Township Consultants:

<table>
<thead>
<tr>
<th>Role</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Township Engineers:</td>
<td>Mark Landis, Project Manager of Orchard, Hiltz &amp; McCliment, Inc.</td>
</tr>
<tr>
<td>Township Attorney:</td>
<td>Dan Kelly, P.C. and Brittany Kimball Ellis of The Kelly Firm</td>
</tr>
<tr>
<td>Township Planner:</td>
<td>Rodney Arroyo, AICP, and Eric Pietsch, CNU-A of Giffels Webster</td>
</tr>
</tbody>
</table>

### Township Staff:

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<tr>
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<tbody>
<tr>
<td>Building Official:</td>
<td>David Goodloe</td>
</tr>
<tr>
<td>Planning &amp; Zoning Director:</td>
<td>Tammy Girling</td>
</tr>
<tr>
<td>Specialist, Planning &amp; Zoning:</td>
<td>Lynn Harrison</td>
</tr>
<tr>
<td>Clerk, Planning &amp; Zoning:</td>
<td>Deb Walton</td>
</tr>
<tr>
<td>Clerk, Planning &amp; Zoning Part-Time:</td>
<td>Courtney Keisman</td>
</tr>
<tr>
<td>ZBA #</td>
<td>Name of Petitioner</td>
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<td>------------------------------------------</td>
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<tr>
<td>A8-2022-02</td>
<td>Heather &amp; Jon Cleland Host</td>
</tr>
<tr>
<td>A8-2022-03</td>
<td>Scott &amp; Kristen Kehrer</td>
</tr>
<tr>
<td>A8-2022-05</td>
<td>Galaxy Sign for MJC Ground Sign</td>
</tr>
<tr>
<td>A8-2022-06</td>
<td>Lawrence Sak for Divine Lutheran Church Ground Sign</td>
</tr>
<tr>
<td>A8-2022-08</td>
<td>Father &amp; Son Construction</td>
</tr>
<tr>
<td>A8-2022-11</td>
<td>Fairmont Sign Company for General Motors</td>
</tr>
<tr>
<td>A8-2022-13</td>
<td>Marc McClinton</td>
</tr>
<tr>
<td>A8-2022-15</td>
<td>James Garris</td>
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<td>ZBA #</td>
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<tr>
<td>Alt-2022-20</td>
<td>Ronald Gentry</td>
</tr>
<tr>
<td>Alt-2022-24</td>
<td>Jarie and Sissel Amundsen</td>
</tr>
<tr>
<td>Alt-2022-27</td>
<td>J.S. Brown Road, LLC Mattress Firm Wall &amp; Ground Sign</td>
</tr>
<tr>
<td>Alt-2022-35</td>
<td></td>
</tr>
<tr>
<td>Alt-2022-36</td>
<td>Mat Duraskiss and Pete &amp; Nancy Smilanic</td>
</tr>
<tr>
<td>Alt-2022-38</td>
<td>Kathleen Jacob &amp; Richard Morrow</td>
</tr>
<tr>
<td>Alt-2022-40</td>
<td>Courtney Markoff</td>
</tr>
<tr>
<td>Alt-2022-41</td>
<td>Daniel Sussbauer</td>
</tr>
<tr>
<td>Alt-2022-42</td>
<td>Timothy Foley (Orion Commerce Center Ground Signs)</td>
</tr>
</tbody>
</table>
## Setback Variance

<table>
<thead>
<tr>
<th>ZBA #</th>
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</thead>
<tbody>
<tr>
<td>Alt-2022-44</td>
<td>Deena Nguyen</td>
<td>184 W. Clarkston Rd.</td>
<td>09-11-455-004</td>
<td>11/14/2022 Granted: 1) A 9 ft. side yard setback variance from the required 10 ft. for a carport to be 1 ft. from the property line (west).</td>
</tr>
<tr>
<td>Alt-2022-46</td>
<td>Joel Carrier</td>
<td>1143 S. Long Lake Blvd.</td>
<td>09-01-264-011</td>
<td>11/14/2022 Granted: 1) A 12.7 ft. front yard setback variance from the required 30 ft. for an attached side entry, garage to be 17.3 ft. from the front property line, 2) A 17.4 ft. side yard setback variance from the required 30 ft. for an attached side entry, garage to be 12.6 ft. from the side property line (north).</td>
</tr>
<tr>
<td>Alt-2022-47</td>
<td>Mark Stec</td>
<td>3084 Judah Rd.</td>
<td>09-32-126-024</td>
<td>11/14/2022 Granted: 1) A 20 ft. front yard setback variance from the required 40 ft. for a home addition to be 20 ft. from the front property line.</td>
</tr>
<tr>
<td>Alt-2022-50</td>
<td>Jonathon &amp; Allison Iversen</td>
<td>481 Park View Blvd.</td>
<td>09-12-376-002</td>
<td>12/12/2022 Granted: 1) A 7.1 ft. front yard setback variance from the required 40 ft. for an attached garage to be 3.2 ft. from the front property line.</td>
</tr>
</tbody>
</table>

## Porch, Deck & Fence Setback Variance

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Alt-2022-01</td>
<td>Linda C. Angelbrant</td>
<td>2957 Wainsley Circle</td>
<td>09-20-380-011</td>
<td>01/10/2022 Postponed to the February 28, 2022 meeting. 02/28/2022 Granted: 1) A 35 ft. front yard setback variance for a 6 ft. fence to be on the property line along Waldon Rd., 2) A 10 ft. side yard setback variance for a 6 ft. fence to be on the property line to the east, 3) A 10 ft. side yard setback variance for a 6 ft. fence to be on the property line to the west.</td>
</tr>
<tr>
<td>Alt-2022-09</td>
<td>Jeff Cowley</td>
<td>1323 Lake Shore Blvd.</td>
<td>09-10-103-021</td>
<td>04/11/2022 Granted: 1) A 3.5 ft. side yard setback variance from the required 10 ft. to replace deck/stairs 6.5 ft. from the side property line (west).</td>
</tr>
<tr>
<td>Alt-2022-23</td>
<td>Tracey Guasana</td>
<td>1150 Hemingway</td>
<td>09-15-201-028</td>
<td>06/27/2022 Motion carried to send back the request to the Planning &amp; Zoning department for further clarification. 08/22/2022 Postponed to the 10/24/2022 ZBA Meeting. 10/24/2022 Denied: 1) A 10 ft. side yard setback variance from the required 10 ft. for a 6 ft. privacy fence to be 0 ft. from the side property line to the south., 2) A 10 ft. rear yard setback variance from the required 10 ft. for a 6 ft. privacy fence to be 0 ft. from the rear property line to the west.</td>
</tr>
<tr>
<td>Alt-2022-25</td>
<td>Armando Vuktilaj</td>
<td>2005 Bald Mountain Rd.</td>
<td>09-24-100-007</td>
<td>07/26/2022 Postponed to the 08/22/2022 ZBA Meeting. 08/22/2022 Denied: 1) A 40 ft. front yard setback variance from the required 40 ft. to erect a 6 ft. privacy fence 0 ft. from the road right of way line along Bald Mountain Road (west), 2) A 37 ft. front yard setback variance from the required 40 ft. to erect a 6 ft. privacy fence 3 ft. from the front property line along Starlight Trl (north), 3) A 37 ft. front yard setback variance from the required 40 ft. to erect a 6 ft. privacy fence 3 ft. from the front property line along Starlight Trl (east), 4) A 7 ft. side yard setback variance from the required 10 ft. to erect a 6 ft. privacy fence 3 ft. from the side property line (south).</td>
</tr>
<tr>
<td>ZBA #</td>
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<tr>
<td>All-2022-28</td>
<td>Georgette Dib</td>
<td>563 Oakland St.</td>
<td>09-11-316-023</td>
<td>07/26/2022 Postponed to the 08/22/2022 ZBA Meeting. 08/22/2022 <strong>Denied:</strong> 1) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east, 2) A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line south.</td>
</tr>
<tr>
<td>All-2022-29</td>
<td>Theodore &amp; Christi Adams</td>
<td>2922 Saturn Dr.</td>
<td>09-20-453-023</td>
<td>08/08/2022 <strong>Denied:</strong> 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east, 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west, 4) A 25-ft. wetland setback variance from the required 25-ft. to erect a 6-ft. privacy fence (structure) 0-ft. from a wetland.</td>
</tr>
<tr>
<td>All-2022-30</td>
<td>Adam Martin</td>
<td>2936 Saturn Dr.</td>
<td>09-20-453-024</td>
<td>08/08/2022 Postponed to the 10/10/2022 ZBA Meeting. 10/10/2022 Postponed to the 12/12/2022 ZBA Meeting. 12/12/2022 Postponed to the 02/13/2023 ZBA Meeting. 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east, 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.</td>
</tr>
<tr>
<td>All-2022-31</td>
<td>Ken Backus</td>
<td>2911 Walmsley Circle</td>
<td>09-20-452-013</td>
<td>08/08/2022 Postponed to the 10/10/2022 ZBA Meeting. 10/10/2022 Postponed to the 12/12/2022 ZBA Meeting. 12/12/2022 Postponed to the 02/13/2023 ZBA Meeting. 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., 2) A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east, 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.</td>
</tr>
<tr>
<td>All-2022-32</td>
<td>Mike Humbert</td>
<td>2917 Walmsley Circle</td>
<td>09-20-452-012</td>
<td>08/08/2022 Postponed to the 10/10/2022 ZBA Meeting. 10/10/2022 Postponed to the 12/12/2022 ZBA Meeting. 12/12/2022 <strong>Denied:</strong> 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east, 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.</td>
</tr>
<tr>
<td>All-2022-33</td>
<td>Catherine Baker</td>
<td>2933 Walmsley Circle</td>
<td>09-20-381-004</td>
<td>08/08/2022 <strong>Denied:</strong> 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Waldon Rd., 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the east, 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the west.</td>
</tr>
<tr>
<td>All-2022-38</td>
<td>Kathleen Jacob &amp; Richard Morrow</td>
<td>454 Shorewood Ct.</td>
<td>09-03-405-007</td>
<td>09/26/2022 <strong>Granted:</strong> 1) An 8.42-ft. side yard setback variance from the required 10-ft. for a deck addition to be 1.58 ft. from the property line (northeast), 2) A 2.17-ft. side yard setback variance from the required 10-ft. for a porch to be 7.83 ft. from the property line (northwest).</td>
</tr>
</tbody>
</table>
**PORCH, DECK & FENCE SETBACK VARIANCES**

<table>
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<tr>
<th>ZBA #</th>
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<tbody>
<tr>
<td>A8-2022-39</td>
<td>Michael Adams</td>
<td>2901 Judah Rd.</td>
<td>09-32-400-007</td>
<td>09/26/2022 Denied: 1) A 10-ft. side yard setback variance from the required 10-ft., for a 6-ft. privacy fence to be 0-ft. from the property line to the west. 2) A 10-ft. side yard setback variance from the required 10-ft., for a 6-ft. privacy fence to be 0-ft. from the property line to the east.</td>
</tr>
<tr>
<td>A8-2022-48</td>
<td>Jonathan Stine</td>
<td>2025 Bald Mountain Rd.</td>
<td>09-24-100-008</td>
<td>11/28/2022 Denied: 1) A 40-ft. front property line setback variance from the required 40-ft. for a 6-ft. fence to be 0-ft. from the intersection of the front and side property lines (east). 2) A 10-ft. side property line setback variance from the required 10-ft. for a 6-ft. fence to be 0-ft. from the side property line (west). 3) A 10-ft. rear property line setback variance from the required 10-ft. for a 6-ft. fence to be 0-ft. from the intersection of the rear and side property lines (west).</td>
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</table>

**MAXIMUM FLOOR AREA OF ALL DETACHED ACCESSORY BUILDING VARIANCES**

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<thead>
<tr>
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<tr>
<td>A8-2022-14</td>
<td>Joseph Regiani</td>
<td>3109 Stanton Rd.</td>
<td>09-05-100-011</td>
<td>03/30/2022 Applicant withdrew request. Request was to increase a non-conformity which the ZBA is not permitted to approve.</td>
</tr>
<tr>
<td>A8-2022-18</td>
<td>Jeff Hanson</td>
<td>3936 Maybee Rd.</td>
<td>09-30-200-037</td>
<td>06/09/2022 Granted: 1) A 426-sq. ft. variance above the allowed 1,400 sq. ft. maximum floor area of all detached accessory buildings to add a 968 sq. ft. addition to a 440 sq. ft. garage, and an existing 468 sq. ft. carport.</td>
</tr>
<tr>
<td>A8-2022-20</td>
<td>Ronald Gentry</td>
<td>1031 Elm Ave.</td>
<td>09-15-126-003</td>
<td>05/23/2022 Postponed to the 06/27/2022 ZBA Meeting. 06/27/2022 Granted: the request as amended by the applicant. 1) A 1,000-sq. ft. variance above the allowed 1,400 sq. ft. maximum floor area of all detached accessory buildings to a 2,400 sq. ft. pole barn.</td>
</tr>
</tbody>
</table>

**MAXIMUM FLOOR AREA OF ALL ACCESSORY BUILDING VARIANCES**

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<tr>
<td>A8-2022-02</td>
<td>Heather &amp; Jon Cleland-Hast</td>
<td>896 Buckhorn Dr.</td>
<td>09-11-457-029</td>
<td>02/14/2022 Denied: 1) A 54-sq. ft. variance above the allowed 1,150 sq. ft. total maximum floor area of all accessory buildings to construct an 800 sq. ft. garage addition to an existing 240 sq. ft. attached garage, a 100 sq. ft. shed, and a 64-sq. ft. shed for a total of 1,204 sq. ft. total maximum floor area of all accessory buildings.</td>
</tr>
<tr>
<td>A8-2022-12</td>
<td>Michael Kiekbusch</td>
<td>829 Rustic Village Ln.</td>
<td>09-09-302-011</td>
<td>04/11/2022 Granted: 1) A 120-sq. ft. variance above the allowed 1,500 sq. ft. Maximum Floor Area of All Accessory Buildings to build a 660 sq. ft. pole barn in addition to a 624-sq. ft. attached garage and a 336 sq. ft. shed.</td>
</tr>
<tr>
<td>A8-2022-16</td>
<td>Monish &amp; Carrie Sharma</td>
<td>4320 Newcastle Dr.</td>
<td>09-07-351-008</td>
<td>05/09/2022 Granted: 1) A 192-sq. ft. variance above the allowed 1,900 sq. ft. maximum floor area of all accessory buildings to build a 660 sq. ft. attached garage.</td>
</tr>
</tbody>
</table>
### Maximum Floor Area of All Detached Accessory Building Variances

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Alt-2022-19</td>
<td>Terri Chapman</td>
<td>2740 Judah Rd.</td>
<td>09:32-200-029</td>
<td>05/23/2022 Postponed to the 06/27/2022 ZBA Meeting. Withdrawn: 1) A 1,289 sq. ft. variance above the allowed 1,900 sq. ft. maximum floor area of all accessory buildings to build a 2,660 sq. ft. pole barn in addition to an existing attached 529 sq. ft. garage.</td>
</tr>
<tr>
<td>Alt-2022-20</td>
<td>Ronald Gentry</td>
<td>1031 Elm Ave.</td>
<td>09:15-126-003</td>
<td>05/23/2022 Postponed to the 06/27/2022 ZBA Meeting. Granted: the request as amended by the applicant. 1) A 2,300 sq. ft. variance above the allowed 1,900 sq. ft. maximum floor area of all accessory buildings to build a 2,400 sq. ft. pole barn in addition to a 1,800 sq. ft. attached garage.</td>
</tr>
</tbody>
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### Maximum Lot Coverage Variances

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<thead>
<tr>
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<tr>
<td>Alt-2022-13</td>
<td>Marc Mcclintock</td>
<td>Vacant Parcel 1 Parcel north of 484 Cushing Street</td>
<td>09:03-278-031</td>
<td>04/25/2022 Postponed to the 05/23/2022 ZBA meeting. Granted: A 9.62% lot coverage variance above the allowed 25% for a total lot coverage of 34.62%.</td>
</tr>
<tr>
<td>Alt-2022-17</td>
<td>Duane Anderson</td>
<td>2455 Armstrong</td>
<td>09:21-354-002</td>
<td>05/09/2022 Granted: A 6.28% lot coverage variance above the allowed 25% for a total lot coverage of 31.28%.</td>
</tr>
<tr>
<td>Alt-2022-24</td>
<td>Janie and Sissel Amundsen</td>
<td>90 Shorewood Ct.</td>
<td>09:03-405-034</td>
<td>06/27/2022 Granted: A 1.87% lot coverage variance from the allowed 25% for a total lot coverage of 26.87%.</td>
</tr>
<tr>
<td>Alt-2022-36</td>
<td>Mat Dunaskiss and Pete &amp; Nancy Smilanic</td>
<td>Vacant parcel 2 parcels south of 576 Cushing St.</td>
<td>09:03-278-027</td>
<td>08/22/2022 Postponed to the 09/26/2022 ZBA Meeting. Per the applicant’s request, postponed to the 10/10/2022 ZBA Meeting. Granted: A 4.80% lot coverage variance from the required 25% for a total lot coverage of 39.85%.</td>
</tr>
</tbody>
</table>

### 75% of the Principal Structure Variances

<table>
<thead>
<tr>
<th>ZBA #</th>
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<th>Sidwell</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Alt-2022-02</td>
<td>Heather &amp; Jan Cieland Host</td>
<td>895 Buckhorn Dr.</td>
<td>09:11-457-029</td>
<td>02/14/2022 Denied: A 20.24% variance above the allowed 75% maximum floor area of attached accessory buildings of the principal structure for a total percentage of 95.24%.</td>
</tr>
<tr>
<td>Alt-2022-49</td>
<td>Jeff Hanson</td>
<td>3936 Maybee Rd.</td>
<td>09:30-200-037</td>
<td>11/28/2022 Granted: A 6% variance above the allowed 75% maximum floor area of attached accessory building of the principal structure for a total percentage of 81%.</td>
</tr>
</tbody>
</table>

### Height Variances

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<td>Alt-2022-36</td>
<td>Mat Dunaskiss and Pete &amp; Nancy Smilanic</td>
<td>Vacant parcel 2 parcels south of 576 Cushing St.</td>
<td>09:03-278-027</td>
<td>08/22/2022 Postponed to the 09/26/2022 ZBA Meeting. Per the applicant’s request, postponed to the 10/10/2022 ZBA Meeting. 10/10/2022 Granted: 1) A 10.18 ft. height variance from the required 30 ft. to build a house 40.18 ft. high.</td>
</tr>
<tr>
<td>Alt-2022-51</td>
<td>General Motors Orion Assembly</td>
<td>4555 Giddings Rd.</td>
<td>09:34-200-006 09:34-400-011</td>
<td>12/12/2022 Granted: 1) A 5-ft. height variance from the maximum height of 120 ft. for structures to be 125 ft. tall.</td>
</tr>
</tbody>
</table>
## SIGN ORDINANCE VARIANCE REQUESTS

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>A07-202-04</td>
<td>Jonathan Townsend/Veres Signs for Sycamore Creek Apt.</td>
<td>3355 Thornwood Trail</td>
<td>09-29-101-004</td>
<td>02/14/2022 Granted: 1) A 54.6 sq. ft. size variance above the allowed 41 sq. ft. for a residential ground sign to be 95.6 sq. ft., 2) A 1.75' height variance above the allowed 6 ft. for a residential ground sign to be 7.75 ft. high.</td>
</tr>
<tr>
<td>A07-202-05</td>
<td>Galaxy Sign for MJG Ground Sign</td>
<td>780 S. Lapeer Rd.</td>
<td>09-11-4-6-019</td>
<td>03/14/2022 Granted: 1) A 32 sq. ft. size variance above the allowed 32 sq. ft. for a ground sign to be 64 sq. ft., 2) A 20 ft. road right of way setback variance from the required 20 ft. for a ground sign to be 0 ft. from the road right-of-way, 3) A 1.5' height variance above the allowed 8 ft. for a ground sign to be 9.5 ft. tall.</td>
</tr>
<tr>
<td>A07-202-06</td>
<td>Lawrence Sak for Divine Lutheran Church Ground Sign</td>
<td>3000 S. Lapeer Rd.</td>
<td>09-26-101-012</td>
<td>03/14/2022 Granted: 1) A 33 sq. ft. size variance above the allowed 35 sq. ft. for a residential ground sign to be 68 sq. ft., 2) A 17.06% variance from the allowed 30% for the EMC section to be 47.06% of the total sign area, 3) A 2.8' height variance above the allowed 6 ft. for a residential ground sign to be 8 ft. high.</td>
</tr>
<tr>
<td>A07-202-07</td>
<td>Phillips Sign &amp; Lighting Inc. for Oxford Bank Ground Sign</td>
<td>1115 S. Lapeer Rd.</td>
<td>09-14-226-004</td>
<td>03/14/2022 Granted: 1) A 14.53 sq. ft. size variance from the allowed 40 sq. ft. for a ground sign to be 54.53 sq. ft., 2) A 35.56% variance from the allowed 30% for the EMC section to be 66.56% of the total sign area.</td>
</tr>
<tr>
<td>A07-202-11</td>
<td>Fairmont Sign Company for General Motors</td>
<td>4555 Giddings Rd., 4550 Giddings Rd., 1971 Brown Rd. &amp; 4555 Giddings Rd.</td>
<td>09-34-200-006 09-34-400-011</td>
<td>04/11/2022 Granted: 1) A 4.38 sq. ft. size variances above the allowed 35 sq. ft. for 4 ground signs (#4A, #4B, #4C &amp; #4D) to be 39.38 sq. ft. each, 2) An 8 ft. road right of way setback variance from the required 20 ft. for 2 ground signs (#4A &amp; #4C) to be 12 ft. from the road right-of-way each, 3) A 6.5' road right of way setback variance from the required 20 ft. for ground sign #4B to be 13.5' from the road right-of-way, 4) A 19 ft. road right of way setback variance from the required 20 ft. for ground sign #4E to be 1 ft. from the road right-of-way, 5) A variance for 7 ground signs over the 2 allowed for a total of 9 ground signs. 6) A 3.83 ft. height variances above the allowed 8 ft. for 4 ground signs (#4A, #4B, #4C &amp; #4D) to be 11.83 ft. tall each.</td>
</tr>
<tr>
<td>A07-202-21</td>
<td>Sean Awadish</td>
<td>3901 S. Lapeer Rd.</td>
<td>09-26-452-017</td>
<td>05/23/2022 Granted: 1) A variance for 5 additional wall signs above the 1 allowed/approved for a total of 6 wall signs totaling 107.39 sq. ft.</td>
</tr>
<tr>
<td>A07-202-27</td>
<td>J.S. Brown Road LLC (Mattress Firm Wall &amp; Ground Sign)</td>
<td>851 Brown Rd.</td>
<td>09-33-351-036</td>
<td>07/25/2022 Granted: 1) A variance for 1 additional wall sign above the 1 allowed for a total of 2 wall signs totaling 117.26 sq. ft., 2) A 12 ft. road right of way setback variance from the required 30 ft. for a ground sign to be 18 ft. from the road right-of-way.</td>
</tr>
<tr>
<td>A07-202-37</td>
<td>Northern Sign Company for Allstate</td>
<td>3048 W. Clarkson Rd.</td>
<td>09-08-376-017</td>
<td>09/26/2022 Granted: 1) A variance for 1 wall sign over the allowed 1 wall sign for a total of 2 wall signs totaling 19.13 sq. ft.</td>
</tr>
<tr>
<td>A07-202-42</td>
<td>Timothy Foley (for Orion Commerce Center Ground Signs)</td>
<td>315-325 W. Silverbell Rd.</td>
<td>09-35-100-020</td>
<td>10/24/2022 Granted: 1) A 24.21 sq. ft. variance above the allowed 35 sq. ft. for a ground sign to be 59.21 sq. ft. (to be located at the east entrance off W. Silverbell Road), 2) A 24.21 sq. ft. variance above the allowed 35 sq. ft. for a ground sign to be 59.21 sq. ft. (to be located at the west entrance off W. Silverbell Road), 3) A 2.17' height variance above the allowed 8 ft. for a ground sign to be 10.17 ft. tall (to be located at the east entrance off W. Silverbell Road), 4) A 2.17' height variance above the allowed 8 ft. for a ground sign to be 10.17 ft. tall (to be located at the west entrance off W. Silverbell Road).</td>
</tr>
</tbody>
</table>

## MEDICAL MARIJUANA ORDINANCE NO. 154

<table>
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</tbody>
</table>
Percentage of Zoning Ordinance Variance Requests

- Building/Structure Setback Variances: 44%
- Porch, Deck & Fence Setback Variances: 18%
- Miscellaneous: 14%
- Max. Floor Area of all Accessory Bldgs.: 8%
- Max. Lot Coverage: 5%
- Max. Floor Area of All Detached Accessory Bldgs.: 5%
- Height Variances: 4%
- 75% of Principal Structure Variances: 2%
Percentage of Sign Ordinance 153 Variance Requests

- Ground Sign Square Footage: 33%
- Right-of-Way: 20%
- Number of Wall Signs: 10%
- EMC Requirements: 7%
Percentage of Requests by Ordinance

- Zoning Ordinance No. 78: 85%
- Sign Ordinance No. 153: 12%
- Ordinance 99: 1%
- Temporary Use Permit: 1%
TO: The Charter Township of Orion Zoning Board of Appeals
FROM: Lynn Harrison, Planning & Zoning Coordinator
DATE: January 30, 2023
RE: February 27, 2023, Zoning Board of Appeals Meeting

There are no agenda items scheduled for the February 27, 2023, Zoning Board of Appeals meeting. The Zoning Board may want to consider cancelling the meeting with a motion.