The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, February 13, 2023, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS ABSENT:
Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Adam Martin

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

2. ROLL CALL

3. ELECTION OF OFFICERS
Secretary Dunaskiss moved, seconded by Board member Walker, to appoint Dan Durham as Chairman for 2023. Motion Carried 4-0.

Secretary Dunaskiss moved, seconded by Chairman Durham, to appoint Tony Cook as Vice-Chairman for 2023. Motion Carried 4-0.

Vice-chairman Cook moved, seconded by Chairman Durham, to appoint Diane Dunaskiss as Secretary for 2023. Motion Carried 4-0.

4. MINUTES
A. 12-12-22, ZBA Regular Meeting Minutes

Board member Walker moved, seconded by Vice-chairman Cook, to approve the 12-12-2022 minutes as presented. Motion Carried 4-0.

5. AGENDA REVIEW AND APPROVAL.

Secretary Dunaskiss moved, seconded by Chairman Durham, to approve the agenda as presented. Motion Carried 4-0.

6. ZBA BUSINESS
A. AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024
   (Postponed from 8/8/2022, 10/10/2022 and 12/12/2022 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.

Mr. Adam Martin introduced himself to the Board. He stated that not much has changed since he started this request. The only practical difficulty that he has is two front yards and he explained how that impacts his request to put up a fence.

Chairman Durham confirmed that the property has two fronts. He asked if the petitioner has spoke to the HOA.

Mr. Martin replied that the HOA's response is that the window has closed on them amending their by-laws at this point and there is concern that if they approve it, there are financial implications.

Chairman Durham asked if the petitioner has given additional thought to a four-foot fence.

Mr. Martin explained his concern about how it would look.

Chairman Durham stated that a 4 foot backed up with arborvitae on the inside still gives the petitioner the six feet.

Mr. Martin commented on the existing row of arborvitae on the property and that is why he put in a fence behind that with a lighted walking path. He explained that they were 5 foot high and have been there about 3 years.

Chairman Durham confirmed that the petitioner is looking to block off pedestrian passage in the backyard.

Mr. Martin concurred.

Vice-chairman Cook stated that he appreciates the discussion about the 2 front yards, and he understands those issues. He asked if the HOA brought it up as an agenda item.

Mr. Martin replied that it was brought up at two meetings and no one has pursued it. Since the number of concerned parties has dwindled, there is no more interest in this matter.

Vice-chairman Cook asked about a swimming pool.
Mr. Martin replied that this is something they have always considered but he would miss the view of the water. This is something that they are considering.

Vice-chairman Cook asked if he is planning on being 10 foot off the property line.

Mr. Martin explained the proposed positioning of the fence.

Chairman Durham stated that they have been considering this for four months. He stated that according to the Ordinance the petitioner doesn’t deserve what he wants.
Mr. Martin replied that he would like the 10 foot but since it is technically front yard, he is bound by the 40 feet.

Chairman Durham stated that he appreciates the petitioner's attitude and he explained.

Vice-chairman Cook asked how close is Mr. Martin to the pool decision.

Mr. Martin replied they are in beginning stages.

Vice-chairman Cook stated that the reason he asks is that there is nothing that says he cannot postpone again until they get closer to a decision. The pool would present a different side of this argument.

Mr. Martin replied that he appreciated it.

Secretary Dunaskiss moved, seconded by Vice-chairman Cook, in the matter of case AB-2022-30, Adam Martin, 2936 Saturn Dr., 09-20-453-024, 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) for 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 following standards for variances have not been met in this case due to the following:

1. The petitioner did not demonstrate a practical difficulty that could not be resolved with a 4-foot fence and greenery to accomplish keeping intruders out of the yard and visual protection for the property.

2. The petitioner did not demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone as we have seen by the number of houses that are in the same situation with two front yards.

3. The variance is not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: a 4-foot fence would prevent intruders and shrubbery could be used to reduce noise and improve the view.

4. Granting the variances or modifications 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 construction of 6-foot fences is not allowed by Ordinance since they are trying to keep an open landscape in the community and this does not serve that purpose.

This case was postponed from August 8, 2022, and October 10, 2022 meetings.

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

B. AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013
(Postponed from 8/8/2022, 10/10/2022 and 12/13/23 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.

Petitioner was not present and made no attempt to contact the Township.

Board member Walker moved, seconded by Secretary Dunaskiss, that in the case of ZBA #AB-2022-31, Ken Backus, 2911 Walmsley Circle, 09-20-452-013 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. This matter was postponed from the August 8, 2022 ZBA meeting, the October 10, 2022 ZBA, and December 13, 2022 and Mr. Backus was not present at the December meeting and perhaps before that. Because the numerous postponements, this matter is removed from the agenda based upon the absence of the petitioner on 4 occasions.

Roll call vote was as follows: Walker, yes; Cook, no; Dunaskiss, yes; Durham, yes. Motion passes 3-1.

C. AB-2023-01, Ricardo Skakal, 540 N. Newman, 09-04-126-011

Chairman Durham read the petitioners request as follows:

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.

Mr. Ricardo Skakal introduced himself and summarized the variance request. He would be tearing down the existing garage. He also would like to do some agricultural things with the property including having chickens.

Chairman Durham confirmed that the petitioner has two accessory structures, and one is being removed.

Mr. Skakal replied yes.

Secretary Dunaskiss commented on the poor condition of the existing garage.

Chairman Durham commented on the letter from the Fire Department expressing concern about the gate on the property that would not allow them to enter.

Mr. Skakal replied that the gate is always open and he will talk to the Fire Department and make sure that they have access.

Board member Walker asked what equipment was being stored in the new pole barn.
Mr. Skakal replied a skid steer, a dump trailer, a large tractor, a travel trailer and a truck. He provided a picture showing exactly what is going in there.

Board member Walker asked what the equipment is used for.

Mr. Skakal explained that he uses it to maintain his property.

Vice-chairman Cook stated that he has a concern about the equipment and if the petitioner has a business.

Mr. Skakal replied no; it is all for personal use.

Vice-chairman Cook asked about the lock box on the gate.

Mr. Skakal replied that at one time he locked it, but now he does not. He also uses the equipment to help the neighbor.

Secretary Dunaskiss moved, supported by Vice-chairman Cook, that in the matter of ZBA Case AB-2023-01, Ricardo Skakal, 540 N. Newman, 09-04-126-011 that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned SE, Article XXVII, Section 27.02(A)(8) including 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 and 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 and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: this is a large tract of property which requires equipment in order to maintain it and the petitioner also supports neighbors in his area by providing the service of using the equipment for their convenience and safety.

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 is a large 7-acre parcel which does require an exceptional amount of equipment and the petitioner has a physical reason for needing to use equipment to manage his property.

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: if the property is to be maintained properly and kept in good condition, you need to utilize the equipment necessary to accomplish that.

4. Granting of the variances or modification will not be materially detrimental to public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the fact that this variance will not have an effect on the surrounding area. This is a large tract of property, and the building is located in a place so it will not impair other people’s view and their property rights.

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

The petitioner agrees to contact the Fire Department regarding the gate issue. The petitioner agrees to remove the 480-sq. ft. detached garage along with the 312-sq. ft. car port. The application is date stamped received January 6, 2023.
Roll call vote was as follows: Walker, yes; Dunaskiss, yes; Cook, yes; Durham, yes. Motion passes 4-0.

D. 2022 Annual Report

Board members discussed the 2022 Annual Report.

Board member Walker moved, seconded by Vice-Chairman Cook, to receive and file the 2022 Zoning Board of Appeals Annual Report and to forward a copy to the Board of Trustees.

Motion Carried 4-0.

7. PUBLIC COMMENTS
None.

8. COMMUNICATIONS
   A. Memo Regarding Canceling February 27, 2023 Meeting

Board member Walker moved, seconded by Chairman Durham, to cancel the February 27, 2023 meeting due to lack of business. Motion Carried 4-0.

9. COMMITTEE REPORTS

10. MEMBER COMMENTS

Chairman Durham commented on the joint meeting that is scheduled for March 22, 2023.

Vice-chairman Cook stated that his objection to the second case was procedural.

11. ADJOURNMENT

Moved by Vice-chairman Cook, seconded by Chairperson Durham, to adjourn the meeting at 7:44 pm.

Motion Carried 4-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary