

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
******* MINUTES *******
REGULAR MEETING – MONDAY, February 14, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, February 14, 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:

OTHERS PRESENT:

Jean Zopoto	Will Wilsher	Laura Wilsher
Heath Cleland-Host	Jon Cleland-Host	Scott Kehrer
Kristen Kehrer		

1. OPEN MEETING

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

2. ROLL CALL

3. MINUTES

A. 01-10-2022, ZBA Regular Meeting Amended Minutes

Moved by Board member Trustee Flood, seconded by Board member Walker, to **approve** the minutes as presented.

Motion carried.

4. AGENDA REVIEW AND APPROVAL.

5. ZBA BUSINESS

A. AB-2022-02, Heather & Jon Cleland-Host, 895 Buckhorn Dr., 09-11-457-029

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3

1. A 21.8-ft front yard setback variance from the required 30-ft. to build an attached garage addition 8.2-ft. from the front property line.

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acre

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2. 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.
3. 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%.

Mr. and Mrs. Cleland-Host introduced themselves to the Board and summarized the variance request. Mrs. Cleland-Host explained why the proposed location is preferred to other options on the property.

Chairman Durham asked about the existing sheds.

Mrs. Cleland-Host stated that both sheds are used for yard supplies. The items that they would like to store in the second floor of the proposed accessory building are things from inside the house.

Chairman Durham asked how close the proposed building would be to the street.

Mr. Cleland-Host stated 22 feet from the edge of the street. They tried to make the building as small as they could.

Board member Dunaskiss confirmed that they will use the current garage for storage space. She asked if the access would come around in front of the home.

Mrs. Cleland-Host stated that the existing garage will no longer be used as a garage. She stated that they would pull directly into the garage from the front. They are also putting a cement area alongside the garage so that they would not be using the space in front of the garage for parking.

Chairman Durham asked if the neighbors had commented.

Mrs. and Mr. Cleland-Host confirmed that the neighbors were supportive.

Board member Walker asked if they planned on leaving the existing sheds.

Mrs. Cleland-Host answered yes. The sheds are suitable for yard storage and they do not want to add yard storage items to the new building.

Mr. Cleland-Host commented that the shed by the lake is useful for lake items. There is more leeway on the shed by the home depending on what is needed.

Board member Walker stated that if they tore down one of the sheds, they wouldn't need two of the requested variances.

Mr. Cleland-Host stated that they would still need the third one although it would be less.

Board members discussed how removing one of the sheds would affect the variance request.

Chairman Durham explained the options to the petitioners.

Vice-chairman Cook asked how the petitioners felt that the examples they provided of similar variances were like theirs. He stated that he visited all of the properties that the petitioners pointed out and could not see why they were selected.

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Mrs. Cleland-Host stated that they tried to point out properties that have two car garages and that were closer to the road.

Mr. Cleland-Host agreed that none of the examples pointed out were a perfect match.

Vice-chairman Cook asked about the stick that is in the ground on the property.

Mrs. Cleland-Host stated that this is the corner of the garage. It will sit at an angle because the road curves.

Vice-chairman Cook stated that he doesn't see how the proposed is 22 feet from the road based on that measurement.

Mr. Cleland-Host stated that he took a measurement from the front of the current home to the road and he got 42 feet. He tried to be somewhere around the middle but it is possible with the curve in the road to get a higher or lower measurement.

Vice-chairman Cook asked if he was measuring to the center line of the road or to the edge of the property.

Mr. Cleland-Host answered neither because the edge of the property is into the yard. He was measuring to the edge of the road pavement. He stated that it is 22 feet from the stick to the road.

Mrs. Cleland-Host explained how this front measurement was done.

Board member Dunaskiss asked about the sticks in the ground with the pink flags.

Mrs. Cleland-Host stated that this is the boundaries of the property.

Chairman Durham explained his concerns about backing out of the garage and maneuvering to the street.

Chairman Durham asked if there was any public comment in this case.

Mr. Will Wilsher introduced himself to the Board members and explained how he is a neighbor of the petitioner. He explained the structure of the road and the difficulties with pulling out into the road. He is concerned with cars coming southbound on the road with the garage coming that far out from the house. It might obstruct the view. He stated that the new garage is 26 foot up to the peak which is right in front of the existing garage and house. He is trying to understand how a large truck would fit in the driveway and he expressed his concerns about the height of the new structure. He is concerned about the road being restricted from his view. He doesn't see any of the houses in the neighborhood with accessory structures that look like this. He cannot say that he supports the request.

No further public comment was heard.

Mrs. Cleland-Host explained that the new structure will be attached to the house; it will not be a separate structure. The siding will match the house.

Chairman Durham asked how much higher it is going to be than the house.

Mrs. Cleland-Host answered 9 or 10 feet.

Mr. Cleland-Host stated that they could lower it by 3 foot if necessary. The height is not a violation. The height doesn't block their view of the street.

Board member Dunaskiss stated that the concern from the Board seems to be the access and visibility because of the closeness to the road. She asked if there was any way if they could back up the building into the garage space that is already there.

Mrs. Cleland-Host answered not without taking some of their kitchen out. It is as far back as they could put it.

Mr. Cleland- Host stated that the building does extend south which puts it in front of the kitchen. They did look into putting storage above the current garage but it was too expensive because it would have to be torn out and replaced.

Board member Walker asked when the house was built.

Mr. Cleland-Host answered 1978. They purchased the home in 2018.

Board member Walker stated there was six people when they bought the home and he asked what had changed to create the need for this.

Mr. Cleland-Host stated they wanted the garage from the beginning but didn't realize it would be so difficult.

Chairman Durham asked how many drivers were in the home.

Petitioners answered three but two cars.

Petitioners confirmed that they will remove the shed closest to the home which would eliminate variance #2 request.

Mr. Cleland-Host explained that he looked at the road sightlines.

Vice-chairman Cook moved, and Board member Walker supported, in the matter of AB-2022-02, Heather & Jon Cleland-Host, 895 Buckhorn Dr., 09-11-457-029, that the petitioner's amended request for two variances from Article VI, Section 6.04, Zoned R-3 including 21.8-ft front yard setback variance from the required 30-ft. to build an attached garage addition 8.2-ft. from the front property line and Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acre for 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% 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 the practical difficulty because having too much stuff is not a practical difficulty.

2. The petitioner did not demonstrate the 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 in that they did talk about the positioning of the home on the property however the supporting addresses that the petitioner provided in their response including 885 Buckhorn Drive, 890 Buckhorn Drive and 210 Susan Marie did not support the petitioner's request or demonstrate how it was similar to their property.

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 upon the following facts: the petitioner has an existing garage, which is not a two car, but having a two car garage is not necessary for the preservation and enjoyment of the property itself.

4. The granting of the variance or modification will be materially detrimental to the public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based upon the following facts: where the end of the garage is located, there has been some discussion about its actual distance from the road in addition to some discussion about the height which has nothing to do with being materially detrimental; it is the closeness to the road of the final structure.

5. Based upon the findings of fact, the granting of this variance would impair an adequate supply of light or air to other properties. It would not unusually increase congestion on the public streets although it would potentially have some impact. There is not going to be an increase of fire, or endanger of the public safety, and is not going to reasonably diminish or impair established property values within the surrounding areas. It could potentially impair public health and public safety.

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

B. AB-2022-03, Scott & Kristen Kehrer, 2716 Mercury Ct., 09-20-477-008

Chairman Durham read the petitioner's request as follows:

The petitioners are seeking 1 variance from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-2

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

Mr. Scott Kehrer introduced himself and handed out documents to the Board members. He summarized the variance request. Mrs. Kehrer stated that they are going directly up from the existing and are not going any closer to the street. Mr. Kehrer reviewed the documents provided to the Board members and explained the architecture of the proposed second story. He explained the stakes that are placed on the property.

Trustee Flood stated that he understands the practical difficulty. This home was built in the 1970's and at that time, there were difference setback requirements and the addition will be exactly on the footprint of their existing home.

Board member Walker pointed out the differences between this case and Case #2022-02. He explained how each case is looked at individually and fact dependent.

Chairperson Durham asked if there was any public comment.

No public comment was heard.

Board member Dunaskiss moved, and Trustee Flood supported, in the matter of AB-2022-03, Scott & Kristen Kehrer, 2716 Mercury Ct., 09-20-477-008 that the petitioner's request for one variance from Article VI, Section 6.04, Zoned R-2 a 7.42 front yard setback variance from the required 35-ft. to add a second story addition 27.58-ft. from the front property line 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 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 property was originally zoned in such a way that this would have been permitted but now zoning**

ordinances have changed and the petitioner is adding this on to the home but the footprint of the home will stay the same.

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

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

5. Granting this variance will not impair an adequate supply of light or air to the adjacent property, 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 respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Chairman Durham read a letter of support into the record from a neighbor of the petitioner.

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

C. AB-2022-04, Jonathan Townsend/Veres Signs for Sycamore Creek Apt., 3355 Thornwood Trail, 09-29-101-004

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 2 variances from Sign Ordinance #153

Section 7 – Residential Zoned Areas; Ground Signs Zoned RM-1

1. A 1.75-ft. height variance above the allowed 6-ft. for a residential ground sign to be 7.75-ft. high.
2. A 54.6-sq. ft. size variance above the allowed 41-sq. ft. for a residential ground sign to be 95.6-sq. ft.

Mr. Jonathon Townsend, Veres Signs, introduced himself and Jeremy Parent, Sycamore Creek Apartments, to the Board. Mr. Townsend explained the variance request. The old sign was taken out in the process of road widening. The main reason for the size request is the size of the background is causing them to go over the size requirement. He explained the location of the new sign.

Chairman Durham stated that he understands the need for the signage and he explained his familiarity with this location.

Trustee Flood complimented the sign design.

Mr. Townsend explained the sign's design features.

Trustee Flood stated that when the road was widened, many oak trees were removed.

Vice-chairman Cook asked if there was going to be any trees that would be removed.

Mr. Townsend explained that there is a new landscape plan and yes, some trees will be removed. Vice-chairman Cook concurred with removing some of the existing trees.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Vice-chairman Cook asked if this had changed ownership.

The Petitioner replied no.

Chairman Durham asked how many people were in the development.

The Petitioner replied there are 396 units and they are at 98% occupancy.

Board member Walker stated that the only issue he has is the amount of signage is double what is allowed but he agrees that he likes the sign design.

Mr. Townsend stated that the masonry structure is larger because it extends so far out and the planters are getting larger. The sign itself is not that large. If you scale the sign against the island, it does not look big at all. There is a temporary sign there now and these would come down. The Township counts the entire structure as part of the square footage, not just the words which are only 25 square feet if they just count the name of the complex.

Vice-chairman Cook moved, and Trustee Flood supported, in the matter of AB-2022-04, Jonathan Townsend/Veres Signs for Sycamore Creek Apt., 3355 Thornwood Trail, 09-29-101-004 that the petitioner's request for 2 variances from Sign Ordinance #153, Section 7 – Residential Zoned Areas; Ground Signs Zoned RM-1 for a 1.75-ft. height variance above the allowed 6-ft. for a residential ground sign to be 7.75-ft. high and a 54.6-sq. ft. size variance above the allowed 41-sq. ft. for a residential ground sign to be 95.6-sq. ft. be granted because the petitioner did demonstrate the follow 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: the road has been widened and the former sign was taken out and in addition to the widening, the traffic moves at a rapid pace and there is a Michigan left turn there which makes it easier for both the residents and delivery personnel to find 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 this same district or zone: as has been voiced by others on the Board, they knew of the apartments, but did not know the name so it is extraordinary that a location can be passed everyday but you don't know the name of it. With the placement of this sign, the name will be known as well as any delivery drivers.**
- 3. The variance is also necessary for the preservation and enjoyment of the substantial property right possessed by other properties in the same zone or vicinity based on the fact that it is an apartment complex but is also a business and there are various people that will need to find this location.**
- 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 the improvements in such zone or district in which the property is located based upon the following findings, it is a location that has 396 units and there is movement on a 24 hour basis and this sign will make it safer to find the units.**
- 5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on the public streets, in fact it should decrease the congestion. There is also not going to be an increase of fire, or endanger of the public safety, and is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.**

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

6. PUBLIC COMMENTS

Mr. Bill Wilshire commented on ZBA case # AB-2022-02.

7. COMMUNICATIONS

A. Michigan Association of Planning Opportunities

Information only

Chairman Durham also commented on additional computer security training opportunity.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

Vice-chairman Cook commented that the first case heard tonight was difficult and the examples provided by the petitioners did not support their request.

10. ADJOURNMENT

Moved by Board member Dunaskiss, seconded by Chairperson Durham, to adjourn the meeting at 8:10 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary