The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, February 28, 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:
William Anglebrandt

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

2. ROLL CALL

3. MINUTES
   A. 02-14-2022, ZBA Regular Meeting Amended Minutes
   See action at the end of the meeting

   Moved by Board member Walker, seconded by Trustee Flood, to approve the minutes [January 10, 2022] as presented. Motion carried.

4. AGENDA REVIEW AND APPROVAL
   See action at the end of the meeting

5. ZBA BUSINESS
   A. AB-2022-01, Linda C. Anglebrandt, 2957 Walmsley Circle, 09-20-380-011
      (postponed from 1/10/2022 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. William Anglebrandt introduced himself and summarized the variance request. He explained the loud noise from the traffic adjacent to his property which began after the strip mall was built. He read a definition of “zoning”. He owned property before the mall was constructed.

Chairman Durham asked if Mr. Anglebrandt spoke up when the mall was built.

Mr. Anglebrandt replied that he tried to and he repeatedly expressed his desire to have a fence and was told that he could not have a fence in Keatington. He stated that he has seen all of the fences that have been constructed along Baldwin Road. A four foot fence will not work on that road.

Chairman Durham answered that he understands the issues.

Mr. Anglebrandt commented on the benchmark for an entry way and he studied the traffic pattern behind his home. He provided pictures and the numbers of cars that he counted during this study. He explained the information he gained from his study that he conducted. He commented on the placement of a commercial area right next to the residential area and historical information regarding the building of this commercial area and its placement next to his home.

Chairman Durham stated that there used to be heavier vegetation in this area and he asked what happened to it.

Mr. Anglebrandt replied it was Keatington that cut it out to show off the split rail fence and he explained.

Chairman Durham asked what types of visibility issues he had before they trimmed it.

Mr. Anglebrandt replied that you could not walk through there. He commented on items that have been stolen from his backyard.

Chairman Durham commented that the petitioner needs something.

Mr. Anglebrandt commented on the zoning section, General Business and he read from the section regarding buffering.

Chairman Durham asked how close the petitioner's property line comes to the sidewalk.

Mr. Anglebrandt replied ten feet but from the bike path to the road, there is a large green area and he stated that they easily could have put a fence in this area. Keatington answered that no fences were allowed.

Chairman Durham stated that the distance to the property line is the issue now.

Mr. Anglebrandt replied that he has to come inside the property line six feet or take down trees. There is also a 6 foot easement there and nothing is allowed in this easement.

Chairman Durham asked if the petitioner wants to put a six foot fence six feet off of the property line.

Mr. Anglebrandt replied yes. He commented on the cost to appear before the Board. He stated that the mall should have paid to put up screening when it was built for his house and the six others that have the same
issue. He explained the truck patterns at the shopping center. He has to sell his house and he needs a barrier now so that he can sell it.

Trustee Flood stated that there are a lot of four foot privacy fences in the neighborhood. He understands the issue but suggested a four foot fence with additional shrubbery to replace what has been lost.

Mr. Anglebrandt commented that it was twenty years ago and he understands that nothing can be done now but commented on why they were allowed to do it.

Trustee Flood stated that his opinion is that the petitioner can do a four foot fence and this would solve the problem right now.

Mr. Anglebrandt replied that four foot would do nothing and he doesn't want a four foot fence.

Board member Dunaskiss asked if he could put up a four foot fence and then add shrubbery.

Mr. Anglebrandt stated that he tried that and explained why this would not work.

Chairman Durham asked if the petitioner had a barrier that he approved of, would he still sell his house.

Mr. Anglebrandt replied yes; he has to because his wife and he need a one level home. The only way he can sell it is to have a fence.

Chairman Durham stated that he doesn't like six foot fences.

Board member Walker asked if the driveway lines up directly with the petitioner's house.

Mr. Anglebrandt replied yes. He provided photos for the Board members that were also included in the Board packets. He commented on the box elder tree that is in this area and how he has maintained it.

Chairman Durham confirmed that the petitioner wants a six foot fence six feet back from the property line.

Mr. Anglebrandt replied yes.

Chairman Durham asked if the petitioner needs a variance.

Building Official Goodloe and Board members discussed how much of a variance the petitioner needs.

Board member Walker confirmed that the petitioner wants a 6 foot fence six feet off of the property line on Waldon Road.

Building Official Goodloe asked if there was an approval letter from the HOA.

Trustee Flood stated that in the packet, it says that a fence can be located in the easement with approval of the architectural board. He asked if all three of the variances requested were required to put the fence along the backyard 80 feet. The only way that he would not require the ten footers is if he brought in the fence 10 feet on each side and it would only be 60 feet across.

Board member Walker asked if he was willing to bring the fence in 10 feet on each side short of the neighboring properties and he would build a 60 foot fence.

Board members and Mr. Anglebrandt discussed the location of the proposed fence and the options.
Trustee Flood asked if the petitioner wants the variance exactly as it is written or does he want to change it.

Mr. Anglebrandt stated that he neighbor also might want a fence.

Board member Walker explained that every variance is individual and they are here to discuss the petitioner's request.

Building Official Goodloe suggested with a 29 foot variance, they get rid of #2 and #3 requests. This is a good compromise.

Board member Dunaskiss asked about the location of the driveway in relation to the property.

Mr. Anglebrandt replied that it is right in front of his family room and patio. It is to the right side.

Board member Walker asked if the entire width of the driveway directly across from the petitioner’s 80 feet of property.

Mr. Anglebrandt replied yes.

Building Goodloe stated that if the petitioner went 10 feet less on each side, he would only need the variance from the property line.

Mr. Anglebrandt agreed.

Building Official Goodloe stated that he understands that the petitioner wants a 29 foot variance to put a 6 foot fence 6 feet from the property line instead of 35 foot zero feet from the property line. The fence would not exceed 60 feet in length.

Trustee Flood asked if the petitioner had thought about putting the privacy fence around the patio area.

Mr. Anglebrandt replied that they considered it and decided no.

Board member Dunaskiss stated that if the petitioner reduces the request 10 feet on each side, this would not address the problem of people coming onto his property because there will be an opening.

Mr. Anglebrandt replied that he understands and he commented on other items that were there including and electrical box and trees.

Vice-chairman Cook asked if Mr. Anglebrandt called Miss Dig to determine if a fence could be put there.

Mr. Anglebrandt stated that he knows where the lines are from when he planted the tree but he will call Miss Dig.

Chairman Durham read a letter of support into the record from Ms. Veronica Oulette, 2945 Walmsley Circle.

(Recording malfunction but resumed during item #8 – the motion for this case was not recorded however the motion maker provided the following:)

Moved by Board Member Walker, seconded by Chairman Durham, that in the matter of ZBA Case AB-2022-01, Linda C. Anglebrandt, 2957 Walmsley Circle, 09-20-380-011, that the petitioner's request for the one remaining variance [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.] from Zoning Ordinance #78 Article XXVII, Section
27.02(A)(4) & Article XXVII, Section 27.05(H)(2) be amended to a 29-ft. setback variance from the required 35-ft. be granted because the petitioner did demonstrate that the following standards for variances had been met in this case in that they set forth facts as follows: the petitioner has withdrawn the request for the second variance of a 10-ft. side yard setback variance for a 6-ft. privacy fence to be 0-ft. from the property line to the east and the third variance of a 10-ft. side yard setback variance for a 6-ft. privacy fence to be 0-ft. from the property line to the west which reduces the request to a 29-ft. setback variance for a 6-ft. fence to be 6-ft. from the front property line along Waldon Road; because of the configuration of the property, the front yard setback applies even though it is really the rear of the property; and the petitioner has indicated that over the years traffic has increased tremendously along Waldon Road subsequent to his purchase of the home; the strip mall was created with one of the driveway entrances off of Waldon Road; the petitioner does show the following practical difficulty due to the unique characteristics of the property and it is not related to the general conditions in the area of the property; the request with regard to the traffic itself is not a practical difficulty; the petitioner has indicated that the Homeowner’s Association trimmed some of the trees and other things of that nature along the property line; 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 zoning; the issue is truly, in my opinion, that of truck headlights shining into the petitioner’s home early in the morning and late afternoon; the petitioner has indicated that, in his opinion, it has resulted in the diminution of his property value; the granting of this variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zone or vicinity based upon the following facts: that the remaining homes along Waldon Road in that subdivision are not subject to the lights of the trucks that come in and out of the Kroger parking lot; and again, the Kroger parking lot was not there when the petitioner purchased the home; once again, the additional traffic does not impact the granting of this variance in that the petitioner has lived there for 34 years and we all know that in the last 34 years traffic has grown exponentially on every main and secondary road in the Township, I feel that this does not rise to a practical difficulty but the petitioner’s practical difficulty are the trucks exiting the mall and shining their lights into his home; a discussion ensued with regards to a 4-ft. fence that he would be entitled to without a variance but the petitioner indicated that would not be high enough because the lights would still shine into his living room and bedroom; further, based upon the following findings of fact: the granting of this variance would not impair an adequate supply of light or air to adjacent property; it would not unreasonably increase congestion in public areas; it would not increase the danger of fire or endanger public safety; it would not unreasonably diminish or impair established property values within the surrounding area nor in any other respect impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township; the petitioner was willing to extend the fence to within 10-ft. of his property on both sides so in fact his property is 80-ft. long, the fence will be 60-ft. long ending 10-ft. away from the property line to the east and 10-ft. away from the property line to the west and 6-ft. from the property line along Waldon Road.

Vote was as follows: Dunaskiss, yes; Cook, No; Flood, No; Waker, yes; Durham, yes. Motion passes 3-2.

6.  PUBLIC COMMENTS
   (Recording malfunction)

7.  COMMUNICATIONS
   (Recording malfunction)

8.  COMMITTEE REPORTS

Trustee Flood commented on the Zoning Board of Appeals 2021 Annual Report that was given to the Township Board and how many of the cases the Board heard had to do with fences.

9.  MEMBER COMMENTS

Board members discussed the issue of fencing and commented on different cases that they have heard. They commented on ways that this issue could be addressed.
Building Official Goodloe suggested that he do some research on this item and bring it back to the Board at the next meeting.

Board members agreed.

Chairman Durham stated that he is not in favor of the tall fences, but the petitioner satisfied the practical difficulty portion of the variance requirement and they would be doing a disservice to the petitioner by turning him down.

3. MINUTES (from above)

A. 02-14-2022, ZBA Regular Meeting Amended Minutes
It was clarified that the minutes approved above were the ones on the previous agenda therefore,

Moved by Board member Walker, seconded by Chairman Durham, to approve the minutes [02-14-2022 ZBA Regular Meeting Amended Minutes] as presented. Motion carried.

Board members discussed item #4 – Agenda Review & Approval and that it should be done at each meeting with a motion.

10. ADJOURNMENT

Moved by Chairman Durham to adjourn the meeting at 8:10 pm. Vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary