

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY MARCH 22, 2021 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, March 22, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360

Please note this meeting was done virtually via a “Go to Meeting” #914-793-997

ZBA MEMBERS PRESENT (Board Member Location):

Tony Kerby, Alternate (Orion Township, Oakland County, MI)
Dan Durham, Chairman (Orion Township, Oakland County, MI)
Don Walker, PC Rep to ZBA (Orion Township, Oakland County, MI)
Tony Cook, Vice-Chairman (Orion Township, Oakland County, MI)
Derek Brackon, Secretary (Orion Township, Oakland County, MI)
Mike Flood, BOT Rep to ZBA (Orion Township, Oakland County, MI)

ZBA MEMBER ABSENT:

None

CONSULTANT PRESENT:

David Goodloe, Building Official

OTHERS PRESENT:

Arron Roscoe	Chad Stuber
Wade Sullivan	Anton Rozhanskiy
Ed Sabol	Denise Rodgers
Horst Stuber	Mark Meyer
Kristin Berry	Brian Sylvain

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

A. 2-22-2021, ZBA Regular Meeting Minutes

Moved by Board Member Walker, seconded by Vice-Chairman Cook, to approve the minutes as amended.

Motion Carried

4. AGENDA REVIEW AND APPROVAL

Moved by Trustee Flood, seconded by Board Member Walker, to approve the agenda as presented.

Motion Carried

5. ZBA BUSINESS

A. AB-2021-01, Anton Rozhanskiy, 1500 W. Silverbell, 09-27-301-018 & 09-27-301-019

Chairman Durham said that this case was postponed from February 22, 2021 meeting.

Chairman Durham read the petitioner's request as follows:

The petitioner is requesting 2 variances from Zoning Ordinance #78 – Zoned SE:

Article XXVII, Section 27.02 – Lot size over 2.5 acres

- 1) A 1,525-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of all Detached Accessory Buildings, to build a 2,925-sq. ft. pole barn.
- 2) A 2,013-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of all Accessory Buildings to build a 2,925-sq. ft. pole barn in addition to a 988-sq. ft. attached garage, for a Total Maximum Floor Area of all Accessory Buildings of 3,913-sq. ft.

Chairman Durham asked who would be presenting for Mr. Rozhanskiy?

Mr. Arron Roscoe asked if they could postpone the case for 60 days until May 10, 2021, or a date after that?

Moved by Vice-Chairman Cook, seconded by Chairman Durham, that AB-2021-01, Anton Rozhanskiy, be postponed until May 10th at the petitioner's request.

Roll call vote was as follows: Walker, yes; Brackon, yes; Durham, yes; Cook, yes; Kerby, yes.

Motion Carried 5-0

AB-2021-02, Kristin Berry, 537 Shady Oaks, 09-10-254-027

The petitioner is requesting 10 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, section 27.01 (C)(1)(a):

1. A 10-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04, Zone R-3

2. A 30-ft. front yard setback variance from the required 30-ft. for a carport to be reduced from being outside the front property line to being inside the property 0-ft. from the front property line along Shady Oaks.
3. A 7.4 side yard setback variance from the required 10-ft. for a carport to be 2.6-ft. from the side property line (north).
4. A 13-ft. front yard setback variance from the required 30-ft. to build an entryway addition to an existing house 17-ft. from the front property line (Shady Oaks).
5. A 2.6-ft. side yard setback variance from the required 10-ft. to build an entryway addition to an existing house 7.4-ft. from the side property line (south).
6. A 4.2-ft. side yard setback variance from the required 10-ft. to add an addition 5.8-ft. from the side property line (south).
7. A 2.2-ft. side yard setback variance from the required 10-ft. to add an addition 7.8-ft. from the side property line (north).
8. A 4.9-ft. side yard setback variance from the required 10-ft. to build a deck with stairs 5.1-ft. from the side property line (south).
9. A 1.75-ft. side yard setback variance from the required 10-ft. to build a deck with stairs 8.25-ft. from the side property line (north).
10. An 11.26% lot coverage variance above the allowed 25% for a total lot coverage of 36.26%

Chairman Durham asked who would be presenting?

Ms. Kristine Berry the applicant presented via the GoToMeeting app.

Chairman Durham stated that he has never seen this number of variances on one property. When they come close to this he wonders if someone is trying to do too much on too little. He noted that a lot of the variances are very small. He asked if they were doing construction right now? Ms. Berry replied no. Chairman Durham said that he got pushed out of there when someone was pouring cement the other day. Ms. Berry said that she would defer to her builder Ed.

Mr. Ed Sabol with Island Point Building. He stated that they have a permit in place to work on the existing structure. He stated that he has helped a lot of people get through a lot of variances and he has never had to get anywhere near 10 variances for anything. When you look at what is there and what they are doing, he knew that they were deviating from lot size, so it is almost a lot width variance. When he looks at what is currently there based on the existing carport, the existing deck, there is really a difference of 275-sq. ft. It is a very small change in terms of coverage. What they have tried to do in this entire process is to try to get this carport out of the road and away from the neighbor's yard. He added that there is a set of stairs to the existing deck, bordering on the neighbor's property. They are trying to scale everything back. If they look at the shape of the improvements it is almost like a missile heading towards the lake. Although they are 40-ft. wide at the street, as they get towards the lake down where everything else is at, they are at 30-ft., so take away 20-ft. and they are at 10-ft. He said that the constraints of the lot are playing a factor in the request for these variances. He said it was a unique very small lot. But they are only looking at a house coverage of 1,334-sq. ft. once improved, and he thought it was very modest. He said they are still looking at 10 variances, but when she is all done, and she decides to sell someday 1,300-sq. ft. on a flyer, he felt it was a modest dwelling.

Chairman Durham said that normally, when they go out to sites, and they look at these places, they have some idea what it is going to look like when it is finished. He couldn't do that there because of its proximity to the road.

Secretary Brackon stated that in one of the resident letters they received regarding the carport, it was brought up about a blind spot issue, a line of sight issue. Mr. Sabol said as far as replacing a carport with a carport, the idea is there are no walls because of the line of sight. Right now, if they look at the existing carport, if they have been to the sight, the carport that is there now, doesn't appear to extend into the road, but it probably extends into the road 4-ft. Their idea with the improvement was to get the carport out of the road and to get it away from the property line. They are trying to get everything back together and trying to get closer to the zoning ordinance instead of just fixing what is there and having something that is on the road right now. So, as far as the impedance of view, it should be 4-ft. less into the road than what they see now.

Secretary Brackon asked if it will be the same general structure, where there are no walls, so the line of sight is not an issue? Mr. Sabol replied right, with fewer posts to support.

Vice-Chairman Cook asked if this was an investment project? Ms. Berry said she was living there.

Vice-Chairman Cook asked if the deck is going to extend across the entire back of the house? Ms. Berry said they shifted it over from the south property line, of the access lot, so it actually comes in a little bit further so as not to impede the neighbor's line of sight across the street so they tried to be mindful of that.

Vice-Chairman Cook said there were sheds on both sides of the house. He asked if either of those sheds belonged to her? Ms. Berry replied no. Vice-Chairman Cook asked if the property lines were where those sheds are? Ms. Berry replied yes.

Mr. Horst Stuber at 546 Shady Oaks St. said the shed was one-foot away from the property line. He stated that he owned the parcel south of the parcel they are talking about. He also owns the parcel across the street and south of across the street.

Chairman Durham read into the record letters from residents. One letter was from Jessica Gingell from 583 Shady Oaks, she was in support of the project. A letter from Karen Stoffel at 447 Shady Oaks and she was in support of the project. The last one was from Karen & Mark Meyer at 527 Shady Oaks, property directly north of 537 Shady Oaks. They have concerns with the 10 zoning variances and about their property being used to access the property for construction. They were also concerned about the carport being too close to the property line as well as inhibiting the roadway. They object to the size of the proposed dwelling in regards to the percentage for lot size, as well as propose setbacks from the side.

Mr. Stuber asked if they received his letter. Trustee Flood read the letter into the record from Horst & Dawn Stuber date stamped March 15, 2021, 36614 Almont Dr., Sterling Heights, MI. The letter stated that they had concerns with their property being used to access the east area of parcel 09-10-254-027, due to the limited distance from the south side of the property. They own parcel #09-10-254-028 which is south of parcel 09-10-254-027. It has been in the family since 1939. This is in regards to the 10 variances Kristin Berry has requested for parcel #09-10-254-027. They have issues with variances #6 and 8. The parcel is pie-shaped and any additions to building a deck or stairs going east will reduce the distance to the property line north and south. They would like to see a plan showing the proposed additions with the outlines of the house, deck, and stairs shown on the lot parcel 09-10-254-027, including the extreme locations of the house, deck, and stairs showing the distance to the south parcel 09-10-254-028. Until they get clarity on the above, they regretfully object to variances #6 & 8. In regards to the existing carport, back in the mid-'70s, the carport structure was granted by Orion Township with no sides only because of a blind spot issue for oncoming traffic in both directions.

Mr. Stuber said that they are not down there, the distance is 2.1-ft. If something was 2.1-ft. away they would not approve that.

Mr. Chad Stuber stated that the access has already been breached, to take a tree down. The lot has huge ruts in it, their kayak posts were removed without permission, and a rowboat was flipped upside down, and boats can't be stored like that in the winter because the hulls will crack, they have to be stored on an angle. The property was removed and damaged already. There is going to be no access to do construction with 2-ft. Mr. Stuber said it was 2.1-ft. and there is no room, even for her to get a wheelbarrow down there she has to breach his property. He said he could put a fence down there, which she has torn down, and didn't ask them if they were ok with that. He said he could put a fence back there, and then what are they going to do? Chairman Durham said they are aware of his concerns. They have a list of items that she would like to have, and they are aware of his concerns.

Chairman Durham said that the side issues they have for Ms. Berry, the side issues they have heard over the years when conditions are tight, people don't like it if their property is walked on, to do something different. He said this was not the first time this has come forward. Mr. Stuber said that the code is 10-ft. and this is 2.1-ft, they are not even close. Mr. Sabol said that the 2.1-ft. is existing is not proposed. Mr. Stuber said that is not on the lower level, the underground level, the furthest east part of the existing building, it is 5.10-ft. Now she is going to go out and by the time she is done with it, she is going to be right there at the lot line because it is pie-shaped. Chairman Durham said that Ms. Berry has brought her request to the Board. They were there to determine what, if any of them, would improve the property and not cause harm to anyone else. He added that they need more time to ask the proper questions.

Ms. Denise Rodgers stated that she owned the property on the other side of Mr. Stuber at 555 Shady Oaks. She said she is not affected, it is Stuber's property that would be used just on the other side. She liked the idea of the house being fixed up. She thought it would have been helpful to have a drawing that showed the house proposed relative to the lot lines. She looked at the pictures, and she couldn't tell how far it was to the lake, and how it looked? She thought that it would have been a helpful to have a picture when they are asking for variances, to see the lot lines. She was hoping that they would see pictures tonight of that.

Board Member Walker asked the applicant when she purchased the property? Ms. Berry replied August 2020, about nine months ago.

Chairman Durham said that the lead request of her list of variances is the fact that they require a 50-ft. lot and theirs is only 40-ft. There is nothing anyone can do about that. The only choice would be to try to buy property from the neighbors. If they look into this distance, at all, they would have to make a decision about the first variance and move on to the rest of the list.

Building Official Goodloe stated that he met with the petitioner and they discussed the carport. He said they were allowed to leave the carport as is, and perform some repairs to it. Instead, they are coming to ask for this, and they are going to actually lesson what it is right now, and make it look nicer. He wanted to clear that up because the carport has been there for a long time. If they look at the other variances, in this case, the house is existing and the smaller variances are on the existing home rather than what they are adding. Mr. Stuber said they are going to be adding 10-ft. to it and they are going to be infringing on his lot line.

Building Official Goodloe said he thought when Mr. Stuber says 2.1-ft. side yard setback, he doesn't realize that there is going to be a 7.8-ft. from the property, because it is just a 2-ft. variance. Mr. Stuber said that he was looking at the plan and it is 2.1-ft. they can see the corner where she is going, it is 10-ft. out. She is continuing the wall that is right now at the existing house, and if they keep going in a pie-shape, if they go far enough, they are going to cross the lot line.

Chairman Durham asked Mr. Sabol if he would be able to stay off other properties if Ms. Berry is successful tonight? Mr. Sabol said that he has built wider homes on narrower lots. He said that the eggshells that they walk on are the least favorite part of his job, but it was also the most challenging. They have ways to get materials in and around this house without ever setting foot on either of the neighboring properties.

Mr. Sabol said that the other concern he heard from Ms. Rodgers was not seeing a site plan, but they did submit one.

Mr. Sabol said that the concern of Mr. Stuber, the 10-ft. noted on the shaded area of the plan is actually the existing home, not a proposed addition. They actually taper in at that point 5.7-ft. off of that existing corner away from his lot lines. The closest point, via addition on the lakeside, is 5.1-ft. from the property line at the tip of the dock. That is the closest they will ever get to his yard beyond what is already there. Mr. Stuber asked what about the lower level, the new eastern part of the wall? They are taking the existing wall and they are going east. How far east are they going and what is the distance from the maximum east to the lot line? Mr. Sabol replied that the actual house, that inside corner, where it protrudes out, he said approximately 8-ft., that would be a safe number. Mr. Stuber said it is going out 8-ft. from what they have right now? Mr. Sabol replied no. It comes in away from the lot line, then out 12-ft. at the very corner of the house, it is 5.8-ft. from the property line.

Building Official Goodloe said that the addition is not going to increase the non-conformity. The existing spot is what is so close to the property.

Mr. Sabol understood that the existing house is 2.1-ft. from the property line, they don't have any intention of tearing that area down, but at that point, they go away from the property line because it was so close. Mr. Stuber said he was talking about the ground level, not the upper level, they violated the upper. The ground level right now, the east corner of the existing building is 5.10-ft. away from the lot line. If they increase the lower wall, which they are, they will go out, it is going to be a lot more than what they are saying. Mr. Sabol replied no, it will be approximately that. Mr. Stuber said he wanted them to tell him the further east wall, what is the distance from the end of the wall to the lot line? If they are going to extend the wall that they have right now, they are going to expand it according to the plans. If they go further east and it stops that is the end of that wall. He asked how far are they from the lot line? Mr. Sabol said the lower level will not pass the upper level on that corner. Mr. Stuber wanted to know the distance from the wall they have right now, the existing building, when they go east with that wall, how far east, are they going to go with that wall in the same spot? Mr. Sabol said if you are standing on your property facing Ms. Berry's property, looking to the north, and they see the section of the building that doesn't have a basement under it, it is like a covered porch underneath, it is not going any further toward the lake beyond that wall without going north 5.7-ft. to get away from your lot line. The lower level would match up to the stairs. Mr. Stuber asked what is the distance of the stairs to the lot line? He asked when they go east with that wall, and it stops, on the lower level, what is the distance? Mr. Sabol replied it was approximately the same as the top. The site plan shows the existing level at 2.1-ft. from the property line. The only addition is underneath it to enclose that space. Mr. Stuber asked how are they going to get a wheelbarrow through there without hitting his lot? Mr. Sabol said they are not they are going to take them down the other side. Mr. Stuber stated that they have a carport there that is on the lot line. Mr. Sabol replied not for long. Mr. Stuber said they don't have a lot of room. He said he was going to apply for a fence and they will not be able to use that. He added that there was a fence and she has torn it down without asking them if she could.

Building Official Goodloe pulled up the drawing.

Building Official Goodloe said the existing property is 2.1-ft. He knew that it would not increase the non-conformity with what they are planning.

Chairman Durham asked if Mr. Sabol restored the edges of somebody's property if they rutted it or if the grass got killed because they were walking on it? Mr. Sabol replied that they were "better than they found it" kind of company. They try and walk on eggshells with the debris, the trucks, everything. It is one thing to make the client happy, but if they got two neighbors, waving pitchforks, they are not going to get too many more jobs in the neighborhood, and this is in his backyard, he also lives on Lake Orion.

Mr. Stuber said he didn't appreciate the pitchfork part. He said to go look at his property right now and they will see how torn up it was. They had some heavy equipment, there are ruts in there, 3-inches deep, grass is killed. He said don't tell me pitch folk, he was a good neighbor, they violated it and they didn't even ask. Mr. Sabol said he was going to apologize, but he had not been on that property yet. He added that there were some guys that did some tree work, and that had nothing to do with his contract or his company. He apologized for the inconvenience, but it was not him.

Trustee Flood said that dealing with these lake lots, which were plotted back in the 19th century, they are difficult. That is why today's standards 50-ft. is required, they are not compliant, but they find that a lot on those lake lots, and is nothing unusual. He looks for a practical difficulty in each case, and for him it is the size of the lake lot, being pie-shaped the way they are. He added that the Fire Marshal has reviewed this and he always takes it into consideration, especially when they get these requests to add these variances be smaller than the code requires. The Fire Department to him is a number one if there is a problem with that, and the Fire Marshal said no problem. He also thought that moving that carport back is beneficial, regardless of whether any of these other variances are passed or not. Moving that carport back out of the road right-of-way, makes perfect common sense for safety.

Mr. Stuber requested them to make sure that the sides on the carport are not there because they can look through it. He said he has been sitting there for many years, and the road is too narrow, and people are going to get hurt. Secretary Brackon said that they have already addressed that.

Mr. Brackon said as someone, also, who lives on Lake Orion, he thought that they can all appreciate what people are trying to do to make the place beautiful and nice to look at and visit. He went by there and based on what he has heard the structure is going to be better to look at. In view of lake life and getting along with your neighbors, because when you live on a lake the neighbors are in your windows because it is only 5-ft. away, that is part of the experience and they have to kind of expect that.

Vice-Chairman Cook said regarding variance request number two. He noted that earlier it was referenced that a variance was granted back in the 1970s for that. He asked if it was necessary to have that one included in this request? He noted that Mr. Sabol said they would be making the request smaller. Building Official Goodloe stated that they did discuss that with the petitioner, and he thought it was in their best interest to make sure that it did get discussed at this meeting because it was so long ago and he couldn't find anything on record. He thought it was in their best interest since they were, downsizing it.

Mr. Stuber said it was stated earlier that the building on the lower level is not going any closer than 5.1-ft. from the lot line? Mr. Sabol replied no. He said the corner of the upper building, which is 2.1-ft. would now extend down to the ground to be 2.1-ft. He said if they picture a building without a basement, they are trying to enclose some space to pick up some additional room and tie the addition into the new lower level.

Secretary Brackon asked if there was a corner overhang down to the ground into the basement? Mr. Sabol replied the entire 10 X 24.2-ft. expands the width of the house. He thought that they started with the deck and then put walls, the ceiling, and a roof and then essentially a second story addition only. So, it is open underneath like a covered porch.

Mr. Stuber said that they have 2.1-ft. on the lower level from the corner of the lower level, on the ground floor to the lot line. He added that they can't even get a wheelbarrow through there. Chairman Durham said this has been discussed already and if there is any inadvertent property damage, it will be repaired.

Mr. Stuber thought that 2.1-ft. was very close to the lot line for a wall to be. He added that it is not there now but it is going to be there. Chairman Durham said that this is already a non-conforming structure as far as today's rules go. The variance they are asking for, if it moves it to that point, the Board will either grant the variance or they won't. Based on their rules and what it is they do, and whether it will make it better or worse, and how it compares to other properties similarly in the area.

Mr. Stuber said so it is bad to start out with, and it just makes it worse.

Board Member Walker said that the petitioner purchased this property 7 months ago. He said he believed that the petitioner was a licensed real estate agent, and assumed she understood variances. She purchased this and now wants all of these variances. He stated that it somehow bothers him. The practical difficulty is there, it was always there. He thought it was self-created because she purchased the property.

Chairman Durham asked if the property was livable the way it sits? Mr. Sabol replied no. Chairman Durham asked when the petitioner bought it, it was not in a habitable condition? Mr. Sabol replied no. Chairman Durham asked so renovate or drop it, that was the two choices? Ms. Berry replied yes.

Chairman Durham understood what Board Member Walker was saying.

Mr. Stuber stated that they had that property since 1939, and to get 2.1-ft. from the lot line, he asked why let that happen? Chairman Durham replied it hasn't happened yet.

Trustee Flood asked Building Official Goodloe, being that this is a non-conforming lot, could anything be built on it today if it was a vacant lot with today's standards? Building Official Goodloe said not if they don't have a 50-ft. lot width. Trustee Flood stated that it would be an unhabitable parcel of property, which would make it a burden on whoever purchased that property, right? Building Official Goodloe replied yes. Trustee Flood said because it is non-conforming, and thought that all those lake lots around there that don't meet the 50-ft. are non-conforming in today's standards, correct? Mr. Goodloe replied yes.

Building Official Goodloe said when they go through this and they have these so close to the property line, they can actually get them at least safe by when they come to fix these, they have to if it is within 5-ft. of the property line width and a fire rating on the wall. He said it makes it safer when they do fix these lots up eventually.

Mr. Stuber said the vacant lot they are talking about is a 50-ft. lot. Trustee Flood stated that he was talking about the existing variance request right now, it doesn't meet the 50-ft. parameter. Mr. Stuber asked didn't someone say that the vacant lot is only 44-ft.? No, it is 50-ft. Chairman Durham said that it was if that house came down and it was left with a 40-ft. lot could something be built, and it could not under today's standards.

Building Official Goodloe said that trying to build on a 50-ft. lot and stay within the ordinances, is nearly impossible.

Mr. Stuber said that he is paying taxes on it to be buildable. He said he went to the Township trying to get the taxes down for an access lot, and they told him that he could build on that because the lot next to him has a 40-ft. lot and it has a house on it.

Mr. Chad Stuber said that Trustee Flood mentioned that the Fire Marshal was out there to inspect that. He asked if the Fire Marshal was aware that they would only have 2-ft. on the south side if there was a fire? Trustee Flood replied that is correct. The Fire Marshal has reviewed all this documentation and he expressed no concern. Mr. Chad Stuber asked if the Fire Marshal had reviewed the building plans? Trustee Flood said he couldn't speak for that, but the Fire Marshal had reviewed all the documents that were pertaining to the variance. Trustee Flood said that the Fire Marshal always goes through all of their documents. He said that sometimes he expresses his concerns, where they have to abide by the codes. He knew that Vice-Chairman Cook was on the Fire Department and he might be able to explain more. Vice-Chairman Cook said that from the standpoint of if there was a structure there, that would be one thing, there is no structure there. He couldn't speak for the Fire Marshal, but just with his experience and looking at what is there, that would be the only thing that would create a concern for him from a fire standpoint.

Mr. Chad Stuber asked if the structure was put there and there was only 2-ft. was that taken into consideration by the Fire Marshal? He thought it was a small area to work with. Trustee Flood said he knew in the past, they have some properties that are closer than that on some of these lake properties that they have in the community. That is where they have to put in fire retention, extra fire protection walls, and things like that to meet fire code, it is not unusual.

Chairman Durham said that the Fire Marshal is on record saying no issues with this particular case. He thought the Fire Marshal was pretty spot on, and he had a high degree of confidence.

Vice-Chairman Cook asked for some clarification from any of the neighbors about this. He said if approved, this house will be within the envelope of the property itself. He added that yes, it will be closer than what the ordinance says from a side yard setback standpoint. He asked how they feel that might impact them by having it at that 2.1-ft. from the side yard? Mr. Stuber said that he had a problem with that. Vice-Chairman Cook asked how that impacted them by having it at 2.1-ft. from the side yard? Mr. Stuber said it doesn't impact him right now. He added that if he ever sold it and somebody wants to build a home, they might not like it. Vice-Chairman Cook said but this property has been in your family since 1939. Mr. Stuber replied exactly. Mr. Stuber added that if that was your property, he wasn't sure if he would like it. Vice-Chairman Cook said that he was asking him how it would impact him? He was giving him the opportunity to address that, and he wasn't saying it because of something that may happen in the future on a piece of property that has been in your family since 1939. Mr. Stuber said that is because my property is going to be used to take things up and down. He added that anything that they want to do in their backyard they will be going through his lot, because right now the carport is right on the lot line, on the other side. They are going to use either the north or the south side of their parcel. There is no other way out, and they know it, and he knows it. Chairman Durham said to Mr. Stuber that he has a right to his opinion, but he has heard what has been put into the record. If what has been put into the record in the event that they succeed here, and it is not what is done, he was certain that they would remedy it for him.

Ms. Denise Rodgers, 555 Shady Oaks Dr., one lot south of Mr. Stuber's lot in question. She thought that one of the issues is, that the city is telling the Stuber's that it is a buildable lot and charging taxes accordingly. The city is doing it two ways. She knew it was not their department, she realized they were in place for variances. She said she was less permitted than everyone there. She would like everyone to be happy neighbors, but that is maybe where the Stuber is hearing it, two different ways from different city departments.

Chairman Durham asked Building Official Goodloe if that was 50-ft. wide? Building Official Goodloe replied yes. Chairman Durham said if it is 50-ft. it is buildable. Trustee Flood said that Mr. Stuber's property is 50-ft. at the road but he is 20-ft. at the lake it, tappers down also towards the lake. Chairman Durham said so they would have to build an odd-shaped house there too.

Trustee Flood said if they look at the map, the petitioner's property, it says 50-ft. in front of theirs too, but according to the Planning & Zoning Department, it is 40-ft. Sometimes that is what is conflicting.

Mr. Stuber said that was surveyed last fall and they know exactly what it is because they put stakes in where the lot lines are, so they could just measure it, and thought that whatever the Township said was right on.

Trustee Flood asked if Mr. Stuber's property tapered towards the lake? Mr. Stuber replied absolutely, they would have to put a special home there.

Mr. Mark Meyer, 527 Shady Oaks, said his property was to the north, and they had a real concern about their property being accessed during construction. They saw how Mr. Stuber's property has been torn up, and they have concerns about any use at all on their property, as well as all of the concerns that are listed in his letter that they read earlier. Building Official Goodloe said he has never had an issue with anything like that. He added that if they do, they would be on-site and addressing it right away. It was not one of his concerns but understood the concerns of the neighbors. Mr. Sabol said they have no intention of using either of the neighbor's properties for access.

Mr. Wade Sullivan lives at the end of Shady Oaks. He stated that they are fully in support of the variances being approved. He was aware of the type of work that Mr. Sabol does, and he had no doubt it was going to be a beautiful home when it is finished. He said it is looking much better than it has for the past 16-years that he has driven by, at least 5-6 times per day. He understood the neighbor's

concerns. As Mr. Sabol has stated, they deal with it every day, all around the lake. If there was ever a case that represented what the ZBA is for, there is not one, better than this. It is definitely challenging, probably platted around 1922, like his lot. There are at least half a dozen properties on their street that are closer to the property lines than Ms. Berry's. So again, I would just like to voice my approval or hopeful approval of the variances requested.

Chairman Durham said that if the Board decides to move forward, do they need to have a separate motion to approve the width first, or could that be part of the general motion? Building Official Goodloe said it could be part of the general motion. He added that sometimes they want to save all that time before because if they don't get that, they can't move forward, they have done it both ways.

Vice-Chairman Cook asked Ms. Berry if this will be her primary residence? Ms. Berry replied it will be her primary residence.

Board Member Walker asked if this would be "Your" primary residence? Ms. Berry replied correct.

Mr. Stuber said it was stated that Ms. Berry rebuilds homes and flips them. He asked Ms. Berry when she would be flipping this home? Ms. Berry replied that she has no intention of flipping this house.

Trustee Flood said that his understanding is that anytime they grant any variances, it always runs with the land, no matter who owns the property, the variance will always stay with the land. Chairman Durham agreed.

Vice-Chairman Cook asked Mr. Sabol, as the builder he knew he talked about living in the area on a lake. For this to move forward, is it his intention to speak with the neighbors? He knew they were going to do everything they can to be as professional about it and make it better than they found it. Is that part of their plan at this point is to speak to some of the neighbors? If they are successful tonight, what is their plan of action? Because of the previous contractor, doing some things that seemed to upset some of them. Mr. Sabol said as soon as they are outside and actively working there at the home, to date just some minor foundations stuff on the existing home, they pass out his business card, his number is on the sign, it does not go to an office it goes to his pocket. Calls, texts, e-mails, pretty much any time of the day, nothing is sacred anymore. They are happy to field any info and any concerns of the neighbors, and if they call him, it gets address right away. They can call the municipality and wait for a reaction. He stated that he is in the neighborhood and around town all day long, and if there is a problem, they want to put the fire out right away. They are there to get their job done and get out of here as quickly as possible so they can enjoy the rest of their summer.

Vice-Chairman Cook asked if there were any more concerns from the neighbors that they haven't addressed?

Mr. Stuber asked if there will be a copy available of the meeting? Trustee Flood said that he has been told by the Planning & Zoning Department, and the Township Attorney that even though they filmed these meetings, what is actually in the written minutes is legal. He noted that they do have a replay on this on ONTV that they can review this meeting. Mr. Stuber said he can get copies of those minutes? Trustee Flood replied absolutely. He added that they won't be available until after the next meeting when the minutes are approved by this body.

Moved by Secretary Brackon, seconded by Trustee Flood, that in the matter of ZBA case #AB-2021-02, Kristin Berry, 537 Shady Oaks, 09-10-254-027, I move that the petitioner's request for 10 variances from Zoning Ordinance #78 – Zoned R-3, Article XXVII, Section 27.01 (C)(1)(a): 1) a 10-ft. lot width variance from the required minimum 50-ft. lot width; Article VI, Section 6.04, Zoned R-3; 2) a 30-ft. front yard setback variance from the required 30-ft. for a carport to be reduced from being outside the front property line to being inside the property line 0-ft. from the front property line along Shady Oaks; 3) a

7.4 side yard setback variance from the required 10-ft. for a carport to be 2.6-ft. from the side property line (north); 4) a 13-ft. front yard setback variance from the required 30-ft. to build an entryway addition to an existing house 17-ft. from the front property line (Shady Oaks); 5) a 2.6-ft. side yard setback variance from the required 10-ft. to build an entryway addition to an existing house 7.4-ft. from the side property line (south); 6) a 4.2-ft. side yard setback variance from the required 10-ft. to add an addition 5.8-ft. from the side property line (south); 7) a 2.2-ft. side yard setback variance from the required 10-ft. to add an addition 7.8-ft. from the side property line (north); 8) a 4.9-ft. side yard setback variance from the required 10-ft. to build a deck with stairs 5.1-ft. from the side property line (south); 9) a 1.75-ft. side yard setback variance from the required 10-ft. to build a deck with stairs 8.25-ft. from the side property line (north); 10) an 11.26% lot coverage variance above the allowed 25% for a total lot coverage of 36.26%, 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 the case: The petitioner does show the following Practical Difficulty: it is has been stated today that the lot in this case is different than most given that it is on the water, it was probably sectioned off in the 1920's, it is pie-shaped, or at least a piece of pie-shaped, in that it gets smaller as it goes down, and so the shape of the lot given that it is on the water does present Practical Difficulties and requires a variance in this particular case; there 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: this is a piece of property on the water a very narrow lot that starts out at 40-50-ft. and goes down to 20 plus feet, given the building that is already on the land, and what he has already said, certainly presents exceptional or extraordinary circumstances that are different than most other lots in the Orion Township; 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 findings of facts: the house is currently uninhabitable, it was that way before, certainly, they should be able to enjoy the beauty of Lake Orion, given the fact that they would not be able to build something very similar to what currently exists, depriving her, of that enjoyment of using her property, would be tragic in this case, so the variances would be necessary; 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 on the following findings: the only concern they have heard so far is that during the construction process there was a concern that the builder could infringe on the property of the neighbors on either side, they have already addressed that these builders are reputable, they have already stated here, and certainly will be included in the minutes, that they are going to put back the property in more likely than not, in better condition that it was before, if they do any type damage or infringe upon the neighbors, there are civil remedies available to the neighbors at that point as well which in most cases, based upon his experience, also include treble damages, which is certainly incentive for the builder not to infringe upon the property in this particular case, there has been nothing stated, in his opinion, which would be injurious, and he thought that the word materially is getting that particular requirement for a reason, it is not minor injurious it is materially; further, based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent property: they have already addressed the issue of site issues with the carport, it is not something they are building a 1,000-ft. super structure and deny somebody the right to see the sunset, the air and light are not going to be affected; this variance would not unreasonably increase the congestion in public streets: it is simply an individual citizen who is going to use it as her primary residence, and that is not going to increase any congestion based on that family moving in; the variance would not increase the danger of fire or endanger the public safety: they have heard from the Fire Marshal in this case who said he has no issue with it, there hasn't been other issues of public safety for other reasons other than fire, which they already addressed, and seemed to be a non-issue as well; the variance will not unreasonably diminish or impair established property values within the surrounding area: he thought they have established what they are going to build on there, versus the uninhabitable mess that is currently there, it is going to increase property values more than anything else; the variances in any other respect will not, impar the public heath, safety, comfort, moral, or welfare of the inhabitants of the Township: there hasn't been anything said today that certainly would infringe on the

safety, comfort, morals, or welfare of anybody by building a structure that is basically using the same footprint for the most part, as the current one that is on the property and has been for many years.

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

C. AB-2021-03, Justin Brantley, 2191 Pondview, 09-04-126-022

The petitioner is requesting 3 variances from Zoning Ordinance #78

Article V, Section 5.04, Zoned SE

1. A 10-ft. side yard setback variance from the required 20-ft. to build a pole barn 10-ft. from the side property line (west).

Article XXVII, Section 27.02 Lot size 1 to 2 Acres

2. A 773-sq. ft. variance above the allowed 1,000-sq. ft. Maximum Floor Area of all Detached Accessory Buildings, to build a 1,200-sq. ft. pole barn in addition to a 573-sq. ft. existing above-ground swimming pool.
3. A 937-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 1,200-sq. ft. pole barn in addition to a 664-sq. ft. attached garage and a 573-sq. ft. existing above-ground swimming pool for a Total Maximum Floor Area of All Accessory Buildings of 2,437-sq. ft.

Mr. Justin Brantley was present via the GoToMeeting app.

Chairman Durham stated that he was with them once before. Mr. Brantley replied yes; he wanted to try to put something at end of his driveway so maybe he can just pull a car into a detached garage, and use that as additional parking and storage. It was pretty close to the property line on that side, so he understood why, because it blocked the view of his backyard for his neighbor, so he understood. It would have been close to a tree also and he didn't want to get rid of it because it was large. After having discussions with the neighbors, they decided a little bit further back into the corner of the property for a structure that would be about the same size. His wife told him that they should reduce the size of it to 20x30, so it ended up being only 600-sq. ft.

Mr. Brantley said that he staked the area on Friday. He wasn't sure if any of the Board Members came out? He had Miss Dig come out Friday and wasn't sure if they went into the west corner or not, but they had marked where the utilities were that were coming from the pole by their driveway to their house. He talked with them, the gentleman said that there wasn't anything back there, but he wasn't sure, so he will have them do it again, just to be sure. Because he knew there were some cable lines there were working on when they had some internet issues in the area.

Chairman Durham said that he had mentioned that they decreased the size, does tonight's request reflect the decreased size? Mr. Brantley replied no because when he was talking to the Planning & Zoning Coordinator, it was said that they should request as much as possible as far as the variance to the property lines and the size of the structure, they could always reduce it later. His wife has instructed him to reduce it.

Chairman Durham said he stood at the end of the driveway and looked back, and he couldn't even see where it was going to be from the end of the driveway.

Chairman Durham stated that before the neighbors were upset, he walked away from it, came back, and put it in a place where it should be much less obtrusive than it was going to be. Mr. Brantley said

yes, they have trees on two sides of it. One side will be pointing towards their property, they will have 150 to almost 200-ft. now pointing towards their property. The back corner of their property will be visible from their neighbors to the south, but only two sides of it for the most part, but it will be mostly covered by trees. Their house is a bit taller than theirs so he felt they could look over it.

Chairman Durham asked if they would be pouring cement all the way? Mr. Brantley said he was going to ask Building Official Goodloe what would be the best structure for the area? He listed pole barn on the paperwork, but he didn't know if it would be better to just have a slab with footings and then have something sit on top of it, or have a pole structure and have a slab in the middle of it? He wanted to know what worked the best of those types of structures? Building Official Goodloe said that typically when they have a slab on a grade, they could discuss this after he was done with the Board, but typically if they have a slab on grade and they want to build walls it is for insulation purposes and it is easier to insulate stone walls. The pole barns are cheaper because of the poles, and then they can go a little higher with the height of the pole barn than they can with a framed wall, it is better to go higher. He told Mr. Brantley to call the office and they can discuss it more. Mr. Brantley said he tried to pick a company around the area to do the concrete, and he thought that he would go with Birmingham Seal Coat.

Mr. Brantley said since the size would be reduced, he wasn't sure how close he would get to the property line, and he thought he put 10-ft. on the paperwork, just so he wouldn't have a lot of extra space around them. There is a hill back there, so he might have to be a little closer, anyway, so he doesn't have to build on the hill. Chairman Durham said he was starting to make him nervous because it sounded like he was putting this together on the fly. Mr. Brantley said he was trying to figure out if he should end up doing a pole barn or more of a garage kit and the comparison to foundations and cost. He added that the size is going to be 20x30, which would be half of what it was before.

Building Official Goodloe asked if it was the hill that was forcing him to push it towards the property line? Mr. Brantley replied that he initially wanted to put it as far into the corner to keep as much property on the house facing side as they could for the kids, and they put a garden in last year and they decided that it needed to be a little bit bigger for gardening. He thought that if it needed to be at 20-ft., that shouldn't be too much of a problem with the reduced size. He thought that the square footage was the problem because of the pool.

Trustee Flood said when numbers change and they start doing the math, things get messed up. He said he had a concern, number one on the 10-yard setback variance from the required 10-yard, to build a pole barn 10-ft., he thought something wasn't right. They are either going to build on the property line or it should have said, required 20-ft. He was confused about exactly where they want to put this building. He added that if they are not going to need that 10-ft. variance and if they are not going to need that big of a variance if he would consider postponing, to get this back on the paperwork, exactly how they want it, and then they can review it again. Mr. Brackon said he thought on page 13, there is a color aerial view map, he thought that was helpful to see where he was putting it. Trustee Flood said what his problem was if they are going to start changing all these numbers, they are talking lot coverage and percentage, they have gotten in trouble before, and they had to come back and clear it up. That is why he always asks the petitioner if they are not exactly clear, maybe they want to look at this again, it doesn't cost them any more to do that.

Chairman Durham said he agreed with Trustee Flood. He added that they don't want to get approval for something, and then they say "wait, that is not what I meant". It needs to come from him to them if it needs to be tweaked a little bit. There is a difference between tweaking and putting it together. He didn't get the impression from anybody that they don't want him to have his building, especially with the location improvement, but they need to be sure what they want to do.

Mr. Brantley completely understood, he didn't want to waste their time. He asked when the next meeting would be? Vice-Chairman Cook replied that the next meeting is on April 12th.

Vice-Chairman Cook said that he was concerned that he is building the airplane while he is flying. He agreed that they might want to postpone and then get some of those questions answered.

Building Official Goodloe said that if he wanted to come in and sit down with him, and they can see what makes sense for his property.

Vice-Chairman Cook thought that Mr. Brantley should take Building Official Goodloe up on his offer. Mr. Brantley thought it would be nice to iron out all the details because he has been shopping and doing a lot of research and he wasn't sure what would be the best for the long haul of the structure itself and felt it would be a wise decision.

Trustee Flood said that he liked the idea of the April 26th because he didn't know if it had to be published in the paper? Building Official Goodloe said that if they pick a date they don't have to readvertise if it is a lesser variance. Mr. Brantley said he was fine with the 26th.

Moved by Trustee Flood, seconded by Vice-Chairman Cook, in the matter of AB-2021-03, Justin Brantley, 2191 Pondview, 09-04-126-022, has requested to postpone until the April 26th ZBA meeting to gather more facts and meeting the Building Official, and the Planning & Zoning Director.

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

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Harrison dated March 22, 2021, Dates which cases can be postponed. Information only.

Memo from Planning & Zoning Coordinator Harrison dated March 17, 2021, Dan's Excavating Ordinance 99 Permit Renewal. The site walk was scheduled for March 27, 2021.

9. COMMITTEE REPORTS

None

10. MEMBERS' COMMENTS

Chairman Durham apologized for things getting out of control. He thought that Secretary Brackon's motion was very smooth, and did a fine job with it.

Trustee Flood said that he gave Mr. Stuber credit because he didn't have them on video, he was on his cell phone. He added that he didn't see anything in their packet that said they are going to start meeting in person starting next month. All committees are starting to meeting in person at the Orion Center, Township Board, and Planning Commission. He assumed the ZBA will also be meeting. He said it will be hybrid like they had before.

Board Member Walker thought that they may have let those folks go too long, but they feel better, they got their voices heard.

11. ADJOURNMENT

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 8:51 pm.

Motion Carried.

Respectfully submitted,

Debra Walton
Planning & Zoning Coordinator
Charter Township of Orion

Zoning Board of Appeals Approval