The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 10, 2023, at 7:01 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

**ZBA MEMBERS PRESENT:**
Dan Durham, Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board Member
JoAnn VanTassel, Alternate Board Member

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

**OTHERS PRESENT:**
Jessica Austin
Shamik Tripami
Phil McPeek
John Callahan
Ron Haag
Marti Fujitz

1. **OPEN MEETING**
Chairman Durham called the meeting to order at 7:01 pm.

2. **ROLL CALL**

3. **MINUTES**

   A. **03-13-23, ZBA Regular Meeting Minutes**

   Board Member Flood moved, seconded by Board Member Walker, to approve the 03-13-23 minutes as presented.

   Motion Carried (5-0)

4. **AGENDA REVIEW AND APPROVAL**

   Board Member Dunaskiss moved, seconded by Board Member VanTassel, to approve the agenda as presented.

   Motion Carried (5-0)

5. **ZBA BUSINESS**

   A. **AB-2023-02, David Lagerquist, 2377 Cedar Key Drive, 09-21-127-012**

   Chairman Durham read the petitioners request as follows:
The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-2 Article VI, Section 6.04
1. A 3.5-ft. side yard setback variance from the required 10-ft. for deck stairs to be 6.5-ft. from the property line to the south.
2. A 1% lot coverage variance from the allowed 25% for a total lot coverage of 26%.

Mr. David Lagerquist introduced himself and summarized the variance request. The practical difficulty is based on the design of the forty-year-old home, the placement of the original deck and the steep topography of the property down to the lake. They also have an existing lot coverage variance from the original design and construction of the home and added that the proposed improvements would increase the lot coverage percentage by 0.1%. They are trying to increase the safety and functionality of the existing deck with some new stairs. The Homeowners Association approves of the new design and there will be no further obstruction of views for the surrounding neighbors.

Trustee Flood commented on the excellent presentation of the petitioner. The Fire Marshall has no concerns with this application. He confirmed that there were also three letters in the Board packet. They received one from the neighbor on the north side and on the other side as well; both do not have any issues with the request. They also received a letter from a neighbor across the lake, Barbara Schalk, who does not approve of the request because they do not approve of all of the lakes in the County being overdeveloped. Trustee Flood commented that these negative comments seem to be mixed up because the petitioner is only replacing stairs for his existing deck.

Mr. Lagerquist confirmed that they are increasing the lot coverage with the new design by 0.1%.

Board Member Dunaskiss confirmed through her visit the steep incline of the property. She understands the need to conform to the topography and where the original deck was placed. She also understands the need to be safe and to construct a staircase that is safe.

Chairman Durham asked for public comment on this case.

No public comment was heard.

Trustee Flood moved, seconded by Board Member Dunaskiss, that in the Case of AB-2023-02, David Lagerquist, 2377 Cedar Key Drive, 09-21-127-012 date stamped received February 1, 2023 for 2 variances from Zoning Ordinance #78 – Zoned R-2 Article VI, Section 6.04 including a 3.5-ft. side yard setback variance from the required 10-ft. for deck stairs to be 6.5-ft. from the property line to the south and a 1% lot coverage variance from the allowed 25% for a total lot coverage of 26% be approved because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does demonstrate the following practical difficulty: due to the unique characteristic of this property along the edge of the lake and the condition of the original 40 year old stairs that are deteriorating and the petitioner is wanting to redo the stairs to put a 90 degree angle in order to put a landing so he doesn’t have a 45 degree straight drop to the patio.

2. The petitioner did 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: This is the lake property and the petitioner is curtailed by how far he can put the stairs on. The property is more steeply sloped than the properties to the north or south.

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: petitioner has a second story doorwall and must have access out of it. Many of the homes in the area have similar decks and stairs.
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 on the fact that it is consistent with what others in the neighborhood have done with their properties and this is property that has existed like this for 40 years.

5. Granting of this variance would not impair an adequate supply of light or air to adjacent properties. Both properties to the north and south of the petitioner have no issue with the variances. Also, the Homeowners Association has approved the request. The variances would not unusually increase congestion on public streets. There is also not going to be an increase of fire, the granting of the variance would increase safety by having the new stairs and the Fire Marshall has no concerns with the request. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Normally the Board does not grant a variance for a property that already has a variance on it. The existing variance was created by the builder when the home was built 28 years ago. This is not self-created.

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

B. AB-2023-04, Paul Smith, 4212 Mill Lake Road, 09-18-426-005

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SF Article V, Section 5.02 (C)(1)

   1. A 63-ft. property line setback variance from the required 70-ft. for an existing private stable to be 7-ft. from the property line to the north.

Mr. John Little, attorney, introduced himself as representing Mr. Paul Smith and he explained the variance request. The impetus for the variance was a complaint received from a neighbor. This property is unique because the entire north side is adjacent to vacant unimproved County property. Without the variance, Mr. Smith will not be able to maintain horses on the property which is what they want to do with the property.

Chairman Durham commented on the need for practical difficulty in each Zoning Board of Appeals case. He asked Mr. Little what the practical difficulty was in this case because it can be moved.

Mr. Little stated that it cannot be moved because it has a cement foundation which was existing in 2021. This was not something that the petitioner built, it was on the property when he purchased it and was not self-created.

Board Member VanTassel asked about the property to the north, 09-17-351-015. She stated that this property is part of Oakland County Orion Oaks Park and gave a brief historical background summary of the property. It has never been developed and she doesn’t think it will ever be developed. She is familiar with Mill Lake Road and provided some historical comments regarding property surrounding this road. The homes immediately south of this subject property have a lot of items in the back yard. The property to the west has a barn and she is not sure if it meets setbacks. She cannot imagine anyone wanting to move horses closer to where they live then where they are right now.

Chairman Durham stated that the problem here is that the previous owner did not use it as a stable and now that it is being used as a stable, it falls under regulations for stables and this makes where it sits too close to the property line.

Building Official Goodloe stated that this structure was built between 2002 and 2005. Prior to this structure being there, it was a significant wetland area. It looks like in 2005, it was some type of stable structure. This
area is considered a wetland and was abated between 2002 and 2005 but he could not find documentation about the abatement.

Chairman Durham asked Building Official Goodloe that the reasoning for moving it away would be because of the wetland immediately behind it.

Building Official Goodloe replied yes. The location of animals might necessitate the testing of the waters to make sure that nothing was getting into the wetland resource.

Chairman Durham asked for public comment.

Kiel Vanderhovel stated that the previous owners of the subject property were using the building to store lawn equipment. Since the petitioner moved it, the family has been using the building as a stable and put up the fence going around. He expressed concerns regarding the wetlands since the petitioner is not taking care of the fecal matter and he is concerned that it is leeching into the wetlands. His other concern is that he has heard the animals were moved to Georgia.

Chairman Durham asked about the existence of the hay.

Mr. Vanderhovel stated that this hay was moved in by Mr. Smith.

Mr. Kinzie Austin stated that he has lived there since 2013 and the previous owner of the subject property used the structure as a garage. When the Smiths moved in, they modified the building adding stalls and a fence around it. He has had two complaints filed with the Township regarding the manure and the number of horses. He summarized those complaints. He asked the homeowner about the removal of the manure and was told that they never removed the manure and had no plans to so there is now eighteen months' worth of manure sitting on the property. He is concerned about this so he had water samples pulled from Orion Oaks Park and from his own property so he could get an assessment. The lab results came back as the runoff going into Orion Oaks is 20 times the fecal coliforms for water that is in the surrounding area. This creates a tremendous risk for health and welfare in the area. It attracts flies and is an ordinance violation. The subject property is regularly flooded and is a wetland area. He doesn't see anywhere on the property that you could build a stable area in which runoff would not be a concern. The raising of these types of animals needs to be done in an area where it is not detrimental to public health and safety. He is requesting that the Zoning Board of Appeals not approve this variance or any building of a stable on this property and that it address the existing complaint that they have regarding the manure.

Chairman Durham stated that the Board is looking tonight at allowing the stable structure to stay where it is. He asked when Mr. Austin collected the water samples.

Mr. Austin replied last week. The horses left in the last week but there are 18 months of manure still on the property.

Ms. Jessica Austin introduced herself and expressed her concerns about the variance request. The two properties that are referenced in the packet are very different from the subject property because they did not have standing water and do not have livestock on them. She offered pictures of the property showing encroachments and previous use of the property and she explained the pictures as she described them. She expressed concern about the manure going into the wetlands. The 70 foot setback is to provide a natural filter before the manure goes into runoff or wetlands and that is not being provided in this case. If we allow this variance, we have eliminated the natural filter. She expressed concern about the contamination of Orion Oaks. This property needs to be rectified because it is contamination.

Chairman Durham stated that there are different issues here. The Board tonight is only dealing with the setback variance request.
Ms. Austin stated that she understands that. But, the 70 foot setback has a purpose in farming and that is to filter the manure before it reaches water and if they eliminate that, they are continuing to allow this type of contamination.

Building Official Goodloe stated that this is built inside a wetland and he would like it permitted. One reason is that the fittings are in the wetland and he considers these to be compromised and it would not be a safe structure. Also, they have a setback for wetlands and looking at the property, this building is located right inside the wetlands. Before the house was built, a large portion of the property was wetland. At some point, they abated the wetland but he does not find anything at the local level.

Mr. Dan Cieslak explained where he lives in Mill Creek Village. He concurred with Mr. Goodloe’s concerns. The variance request should be denied because they failed to provide the burden of truth on it. The petitioner has not hit a substantial burden. He commented on the access to the property and the No Trespassing signs that are posted. The Board does have the ability to deny the variance and stop it from going any further.

Trustee Flood read the ordinance section regarding private stables. He commented on the 63 foot variance requested and the existence of the State land. Financial burden is not a practical difficulty. This property is 300 feet wide and there is plenty of room for 70 feet. The variance being requested is excessive and 90% of the ordinance allowed amount.

Board Member Walker stated that the Board should consider the runoff. He knows they only have one scientific side but they should consider it.

Chairman Durham asked Building Official Goodloe if he has enough to move forward on the complaint through the Township Building Official Goodloe replied yes. He believes that it was built on wetlands.

Board Member Dunaskiss stated that the primary reason for granting a variance is a demonstrated practical difficulty that is related to the property itself. The structure was designed for storage of equipment and now that the owner wants to use it as a stable, it must follow the ordinance.

Board Member VanTassel asked for verification of the livestock being moved off the property. She asked if Mr. Smith planned to live there.

Mr. Little stated that Mr. Smith’s decision to live there is predicated on what they can use the property for. There was a complaint and they knew they couldn’t keep the animals on the subject property so they bought another property and moved the animals. They have not listed the subject property for sale.

Board Member Walker moved, seconded by Trustee Flood, that in the matter of ZBA Case #AB-2023-04, Paul Smith, 4212 Mill Lake Road, 09-18-426-005 for 1 variance from Zoning Ordinance #78 – Zoned SF Article V, Section 5.02 (C) for a 63-ft. property line setback variance from the required 70-ft. for an existing private stable to be 7-ft. from the property line to the north be denied for plans date stamped March 8, 2023 because the petitioner did not demonstrate that the following standards for variances have been met:

1. The petitioner does not show practical difficulty. Due to the uniqueness of this particular property not related to the general conditions in the area.

2. The granting of the variance or modification will be materially detrimental to the public welfare, materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact that by granting this variance and allowing it to be moved, this has been placed in the middle of wetlands and even though there may have been an abatement for the wetlands, the Township is not sure of that. From the testimony of the neighbors, who are not scientists, they have had some tests done and the Board’s concern is the welfare of the citizens of
Orion Township. It is possible that this would impair the public safety, comfort, morals or welfare of the inhabitants of the Township.

Roll Call Vote was as follows: VanTassel, yes; Walker, yes; Flood, yes; Dunaskiss, yes; Durham; yes. Motion Carried (to deny) 5-0.

C. AB-2023-05, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153 Section 7 – Permitted Ground and Wall Signs – Zoned IP

1. A variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34 sq. ft. (east elevation).

Mr. Moe Zaitouna introduced himself as representing the petitioner and summarized the variance request.

Chairman Durham asked if this new sign would replace the current banner sign.

Mr. Zaitouna replied yes.

Board Member VanTassel commented on the placement of the sign in comparison to the road names indicating that the road names were incorrect on application.

Trustee Flood asked if the second sign would be the "#2" indicated on the overhead.

Mr. Zaitouna replied yes.

Trustee Flood commented that it would be on the south side of the building facing Dutton Road. He asked Building Official Goodloe if it were going to have to be published again since the advertisement said east and it should have been south.

Building Official Goodloe replied no.

Board Members discussed where the current signs are located and where the proposed sign is intended to go.

Mr. Zaitouna answered that he is positive that the first sign is on the west side, labeled #1 on the aerial. The second sign will go where it is labeled #2 on the aerial, the south side.

Chairman Durham asked for public comment.

No public comment was heard.

Board Member VanTassel asked if there were other buildings in this area that have two exterior signs on their building. She asked the Planning Department and did not receive a response.

Mr. Zaitouna stated that they communicated with the two businesses next door and since they are not retail, they do not have the need for two signs.

Board Member VanTassel commented that it is up to the petitioner to provide this information.

Trustee Flood stated that this business is on a corner lot.
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Chairman Durham asked if the business planned on keeping the exterior lights.

Mr. Zaitouna answered that they removed one section.

Building Official Goodloe commented that since the side of the building was incorrect, they would have to re-advertise. He suggested that the petitioner postpone for a date certain to May 22, 2023.

Chairman Durham asked if the petitioner could keep the existing banner sign.

Building Official Goodloe replied no. There is no need to punish a new business in the area. They don’t want it up for an extended period of time. He suggested that the petitioner contact Lynn Harrison at the Township and determine if any further documents are needed.

**Board Member Dunaskiss moved, seconded by Board Member VanTassel, that in the matter of ZBA Case #2023-005, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003, that the petitioner’s request for one variance from Sign Ordinance #153, Section 7 – Permitted Ground and Wall Signs – Zoned IP for a variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (east elevation) be postponed for the plans date stamped March 9, 2023 because of an error in the directionality of the proposed sign and this matter be taken up at the May 22, 2023 ZBA meeting.**

Roll Call Vote was as follows: VanTassel, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham; yes. Motion Carried (to postpone) 5-0.

**D. AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002**

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned SF

Article XXVII, Section 27.02 (A)(8)

1. A 2,185.16-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

2. A 1,685.16-sq. ft. variance above the allowed Total Maximum Floor Area of All Accessory Buildings of 1,500-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

Ms. Wioletta Bilan introduced herself and summarized the variance request.

Chairman Durham asked about the comment regarding bringing in more buildings and losing storage space. If the over building had been caught at the permit stage, it probably would not have gotten to this stage.

Ms. Bilan explained that she was told with the first structure that they did not need to have a permit because it is under 200 square feet and the structure was 196 square feet. They did not ask for a permit for the existing gazebo. Her husband called the Township but she doesn’t know what his understanding was. For the carport, they understood that the Amish would pull the permit. When they found out that a permit was not pulled, they were in the middle of it and they just went with it.

Chairman Durham stated that the homeowner is responsible if the contractor does not pull the permit.
Ms. Bilan replied she understood and that is the reason she is here because the Township wanted her to permit the carport.

Chairman Durham stated that Ms. Bilan spoke about how the neighbors felt about the her property. He stated that when he saw the property approaching from the west, he first thought about what had happened here. There are vehicles all over the property and he was shocked with the overall view of the property. He was also shocked by the total overall number of variances that she is requesting because he has never seen those numbers.

Ms. Bilan stated that she provided a table in the application.

Board Members confirmed that they received the table with the amounts of square footage in their packets.

Board Member VanTassel explained the jurisdiction of the Road Commission and the obtaining of the easement that exists on Indianwood Road. She provided history and background of the roads surrounding the subject property.

Board Member Dunaskiss asked if the barn and shed that are on the property are going to stand time or are they deteriorating because of moisture.

Ms. Bilan stated that when they first moved in, they were in terrible shape. They put a roof on the barn and they painted it. They sealed the holes and since it has been 20 years, it is time to do something. There is now water coming north towards them and will find its way to the barn. They are only keeping it because it has history. If the Township wants them to remove it, they will, but it also provides a buffer between them and the new houses. No one knows about the shed and if the Township wants them to remove it, they will.

Board Member Walker asked how many cars are housed on the subject property.

Ms. Bilan replied that her husband was a mechanic but they do not have a place to hide them. She has a car and her husband has a car and they also have a pickup truck, car, and a car for towing. She believes that there have been times when it did not look very nice. They would like to build a three car garage to hide the vehicles. They also have a backhoe. They now have four cars. There is one in the carport. They have two carports with a little bit of storage in between. They have wood and equipment stored in the other carport.

Board Member Walker asked if they ran a business out of this residence.

Ms. Bilan replied no.

Chairman Durham asked if there was a Township ordinance requiring all vehicles to be plated.

Building Official Goodloe replied yes.

Ms. Bilan commented that all the vehicles are plated. The west side is the worst looking section but she and her husband try really hard by putting up a wooden fence. Her husband used to have a trucking business but he doesn’t run this business anymore. On the south side, the Township installed a buffer for privacy because the petitioner complained about the subdivision being built there. The neighbor that moved in removed the fence and this allows the subdivision kids to play in their backyard.

Chairman Durham commented on the role of the Board regarding this case. He stated that what the surrounding people think, they are not dealing with it here. He cannot support the variances requested. He added that the Board cannot make decisions about removing the barn, etc. during the meeting tonight. This should be determined by the petitioner as to what they can offer to accomplish the least variance possible.
Board Member Walker suggested that if they took down the barn and the carport, they would not even be here. The Board is here to decide on the variances requested. He explained the role of the Zoning Board of Appeals in granting variances.

Chairman Durham asked for public comment.

Mr. Doug Broque commented that there is no structured way to park the cars on the subject lot. He has no objections to the cars on the property. He stated that the petitioner has done an excellent job of maintaining the property. He has no objection to the property or their buildings and he pointed out that it is a unique property. There is some drainage from surrounding properties causing damage to the petitioner’s property.

The resident who lives across the street stated that she has no objection to the property and approached the Board with pictures of the surrounding properties which she explained. She explained how the petitioner has used the barn in the past and they cannot use it now because of the water drainage issues they have on the property.

Chris Broque commented that if the subject property is viewed right now, this is a really bad time. The cedar fence on the subject property was knocked down by a snowplow. She commented on the drainage issues that they have on the subject property caused by the new subdivision in the area. The petitioner is a great neighbor and she has no problem with the variance requests.

Board Member VanTassel asked whose children play by the gazebo.

Ms. Bilan replied the neighborhood children.

Board Member VanTassel asked about the new development.

Ms. Bilan replied that it was the old Indianwood golf course. She commented on the increase of square footage for storage. Ms. Bilan stated that she would like the Board to grant the square footage of 2,360 square feet which was the square footage of accessory when they purchased the property.

Trustee Flood stated that all Suburban Farms (SF) zoned property is in the same category and have to abide by the same ordinance. All the Board is using to evaluate the request is the numbers provided by the Planning and Zoning Department and in the notice. He suggested that the petitioner go back to the Planning and Zoning Department and make adjustments that they can make to the plan to reduce the variance request. He commented that everyone must abide by the rules. He agreed with the other Board Members as to the large variances requested. He is hoping the petitioner can reduce the variance request and he would be happy to look at it again.

Chairman Durham concurred. The petitioner can postpone and come back with a reduced request that would be better received.

Board Member Dunaskiss stated that they are asking for large variances and she would have difficulty granting variances for buildings that are not usable. She loves historical buildings but when they deteriorate, they are no longer usable.

Board Member VanTassel stated that she has always understood that when they talk about lot coverage, they are only talking about the ground floor. She sees that this request includes a loft area too. She would like to get an attorney’s opinion on this.

Trustee Flood stated that the Planning and Zoning Department has that on their chart.

Board Member VanTassel stated that she asked to have a drawing from the Assessing Department too. She suggested that they postpone to get consistent numbers from the Assessing Department and for the petitioner to consider the square footage amounts given.
Building Official Goodloe stated that when they talk about lot coverage, they are talking about the ground floor of the structure. When they talk about the [maximum floor area] square footage, that does include loft areas or second floors. There is no lot coverage request in this variance. They usually go by what the Assessing Department has, but when the petitioner has larger numbers, they use the numbers from the petitioner.

Chairman Durham stated that it appears the petitioner is going to make substantial changes to reduce the variances requested.

Ms. Bilan requested a postponement.

Trustee Flood moved, seconded by Chairman Durham, that in the matter of ZBA Case AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002, application date stamped March 10, 2023, at the petitioner’s request to be postponed until May 22, 2023 so the petitioner can confer with the Township’s Planning and Zoning Department to make any further adjustments to the application.

Roll call vote was as follows: Dunaskiss, yes; VanTassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion Carried (to postpone) 5-0.

E. AB-2023-07, Stadium Ridge Apartments, 101 Stadium Drive, 09-14-400-025

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned RM-1

Article VII, Section 7.04 (E)(1)(a)

1. A 12.83-ft. front yard setback variance from the required 100-ft. for Building 13 to be 87.17-ft. from Stadium Drive.

2. A 12.83-ft. front yard setback variance from the required 100-ft. for Building 14 to be 87.17-ft. from Stadium Drive.

Mr. Mario Izzi introduced himself as representing the petitioner and summarized the variance requests. They are proposing rental units on the subject property. Because of the unique shape of the property, they are unable to build the buildings without variances. They do have a recommendation from the Planning Commission for site plan approval and they are trying to move forward with a development that will be successful. Their hardships are the size and the shape of the property. In order to keep the product continuous throughout the project, they would like to build the same buildings throughout the site.

Board Member Walker summarized the Planning Commission’s conditional approval of the site plan.

Mr. Izzi stated that they added setback distance to the building off of Lapeer Road. They are asking for the relief off of Stadium Drive. They also added a berm for landscaping and considerable landscaping on Stadium Drive and Lapeer Road to help soften it.

Chairman Durham asked if these were apartment residential type rentals.

Mr. Izzi replied yes.

Chairman Durham asked who would own the units.

Mr. Izzi replied that they would own them and they would self-manage the units.
Board Member VanTassel stated that she asked for an elevation from both Stadium Drive and also from the larger parcel. She got the front elevation and side elevation. She wanted to see what is being built on the large parcel and does it duplicate what is being shown on Stadium Drive.

Mr. Izzi replied that he would be happy to supply the elevations.

Board Member VanTassel asked about the setbacks for the buildings on Beacon Way. The petitioner has a stronger case if the units off of Beacon Way are less than 100 feet off of Stadium Drive.

Mr. Izzi stated that they appear to be less than 100 feet but he would like to confirm that with the plan.

Trustee Flood stated that earlier they had an petitioner that wanted 90% lot variance. This petitioner is asking for 12% and he does not have a problem with the request.

Mr. Izzi reiterated the need for the variances and this was the simplest way to get to an approved plan.

Chairman Durham stated that it is obvious that the petitioner has tried to minimize the request.

Building Official Goodloe asked if Board Member VanTassel was looking for the rear elevation. He provided the drawings to the Board Members.

Board Members were shown the elevations for the proposed development and reviewed them.

Chairman Durham asked for public comment.

No public comment was heard.

Mr. Izzi provided photos for the Board Members review.

Board Member VanTassel moved, seconded by Board Member Walker, that in the matter of ZBA Case AB-2023-07, Stadium Ridge Apartments, 101 Stadium Drive, 09-14-400-025 2 variances from Zoning Ordinance #78 – Zoned RM-1, Article VII, Section 7.04 (E)(1)(a) including a 12.83-ft. front yard setback variance from the required 100-ft. for Building 13 to be 87.17-ft. from Stadium Drive and a 12.83-ft. front yard setback variance from the required 100-ft. for Building 14 to be 87.17-ft. from Stadium Drive be approved 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 demonstrate the following practical difficulty due to unique characteristics of the property and not related to general conditions: the property is somewhat shallow and for the project to be built using the basic design of the project, it is necessary for variances from the 100 foot required setback to be made so that the product remains harmonious and contemporary with what is being built on the larger parcel adjacent to the subject parcel.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that does not apply generally to other properties in this same district or zoning: the fact that the parcel in question is a rather shallow parcel in comparison to others in the general neighborhood.

3. The variances are necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: the other parcels in this facility on either side north or south of Stadium Drive have a greater depth and have more room to provide for setbacks, the shallowness of this lot, and the product built will require the setbacks for the enjoyment of substantial property rights.

4. Granting of the variances 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 fact that the buildings are limited in size and the amount of traffic will probably be less than what is enjoyed by the occupants of the buildings along Beacon Way to the south or those whether employed there or dropping students off at Stadium Drive have much more traffic.

5. The granting of these variances would not impair an adequate supply of light or air to adjacent properties due to the fact that the property sits below the property to the north which is the King of Kings Lutheran Church and also the buildings are set a further distance back from Lapeer Road/M-24. The variances would not unusually increase congestion on public streets due to the limited size of the parcel and the buildings to be built. There is also not going to be an increase of fire or endanger public safety based on the comments of the Fire Marshall of the Orion Township Fire Department. It is not going to reasonably diminish or impair established property values within the surrounding area due to the limited size of these buildings and it is something that fits into the character of the neighborhood and this property as it is zoned.

Board Member Van Tassel amended the motion, re-supported by Board Member Walter to add the approval is conditioned upon the Board of Trustee reverting the property back to Multiple Family-RM1.

Roll call vote was as follows: Flood, yes; Walker, yes; VanTassel, yes; Dunaskiss, yes; Durham, yes. Motion Carried (to approve) 5-0.

6. PUBLIC COMMENTS - None

7. COMMUNICATIONS

Trustee Flood moved, seconded by Chairman Durham to cancel the May 8, 2023 Zoning Board of Appeals meeting due to lack of agenda items.

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

8. COMMITTEE REPORTS - None

9. MEMBER COMMENTS

Board Member Walker commented on Library meetings and events.

10. ADJOURNMENT

Trustee Flood moved, seconded by Chairman Durham, to adjourn the meeting at 10:04 pm.

Motion Carried (to approve) 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary