The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 11, 2022, at 7:01 pm at the Orion Township Community Center, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Tony Cook, Vice-Chairman
Mike Flood, BOT Rep to ZBA
Tony Kerby, Alternate
Joann Van Tassel, Alternate

ZBA MEMBERS ABSENT:
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board Member

CONSULTANT PRESENT:
Lynn Harrison, Planning & Zoning Specialist

OTHERS PRESENT:
Mike Wick
Mike Nimmo
Robert Egerton
Matthew Coon
Mike Kiekbush

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

2. **ROLL CALL**

3. **MINUTES**

   A. **03-14-2022, ZBA Regular Meeting Minutes**

   Trustee Flood commented that he spoke to the Township Attorney regarding the fact that the 03-14-2022 minutes submitted did not include the ZBA case number related to the amended motion for the 02-28-2022 minutes. Attorney Kelly told Trustee Flood that he could request the case number, AB-2022-01 be added to the 03-14-2-22 minutes therefore amending the 03-14-2022 minutes to add the case number to Item 3. A. 02-28-022 Regular Meeting Amended Minutes.

   Board Member Flood moved, seconded by Chairman Durham, to approve the minutes as amended, adding “ZBA Case #AB-2022-01” to Item 3. A. 02-28-2022 Regular Meeting Amended Minutes.

   Roll call vote was as follows: Van Tassel, yes; Cook, yes; Kerby, yes; Flood, yes; Durham, yes. Motion passes 5-0.

4. **AGENDA REVIEW AND APPROVAL**

   Trustee Flood moved, seconded by Board Member Kerby, to approve the agenda as presented.

   All in Favor: 5-0
5. **ZBA BUSINESS**

A. **AB-2022-08, Father & Son Construction, 3442 Chalice, 09-28-302-001**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78
Article VI, Section 6.04, Zoned R-2

1. A 3-ft. front yard setback variance from the required 35-ft. to construct an attached sunroom enclosure 32-ft. from the front property line.

Mike Nimmo, Father and Son Construction introduced himself and summarized the variance request. He explained nonconformities that exist in the neighborhood, and he presented pictures to the Board Members. The house was constructed in 1960.

Chairman Durham commented that the other homes could have been constructed prior to the present ordinance language. The petitioner is proposing a small addition with a small variance request. He asked how many square feet the house is before the addition.

Mr. Nimmo replied 1,100 square feet.

Trustee Flood stated that he does not see the practical difficulty and there are a lot of houses closer than this property.

Board Member Van Tassel stated that she drove by the property and there is a bay window on the east side of the house.

Mr. Nimmo replied no.

Board Member Van Tassel asked where the entry would be.

Mr. Nimmo replied the front. He pointed out the layout on the drawing and the location of the bay window.

Board Member Van Tassel asked how far the existing sunroom projects from the house and asked about the bay window.

Mr. Nimmo answered 8 feet. The bay window comes out 2 feet.

Trustee Flood stated that when he visited, the variance requested was clear to him.

Chairman Durham asked if there was any public comment.

No public comment was heard.

**Vice-chairman Cook moved, and Trustee Flood supported, in the matter of case AB-2022-08, Father & Son Construction, 3442 Chalice, 09-28-302-001 requesting a 3-ft. front yard setback variance from the required 35-ft. to construct an attached sunroom enclosure 32-ft. from the front property line be granted because the petitioner did demonstrate the following standards for the variance have been met in this case and that they set forth facts that show:**

1. The petitioner does show the following practical difficulty: when the property was built, the ordinances were different that applied to the property then.
2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the Board considered previous zoning and the fact of the measurement of the road in relation to where the house sits on the property.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the placement of the home and previous zoning ordinance.

4. The granting of the variance or modification will not be materially detrimental to 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 the Zoning Board received an email from the Fire Marshall dated Monday, March 21, 2022 saying that he had no concern with this case.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, and it would not unusually increase congestion on public streets. Also, it will not increase the potential of fire or endanger public safety and will not unreasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Cook, yes; Kerby, yes; Flood, yes; Van Tassel, yes; Durham, yes. Motion passes 5-0.

B. AB-2022-09, Jeff Cowley, 1323 Lake Shore Blvd., 09-10-103-021

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-2

1. A 3.5-ft. side yard setback variance from the required 10-ft. to replace deck/stairs 6.5-ft. from the side property line (west).

Mr. Jeff Cowley introduced himself to the Board and summarized the variance request. He explained the communication that he has had with the neighbors and how he has worked with them. The HOA and a neighbor have signed all the documents which are in the Board packets. He has hired a professional builder.

Chairman Durham read a letter into the record from a neighbor of the petitioner, Lauren Hamilton, opposing the variance request.

Trustee Flood thanked the petitioner for having the stakes in place on the property and commented that the Fire Marshall has no concerns. He asked if the petitioner was the original homeowner.

Mr. Cowley replied no.

Trustee Flood commented that the lot coverage is met, and the petitioner meets the 35-foot ordinance setback. The petitioner is asking to replace exactly what is already there.

Board Member Van Tassel asked if it was a side entry garage.

Mr. Cowley replied no.
Vice-chairman Cook moved, and Board Member Kerby supported, in the matter of ZBA case AB-2022-09, Jeff Cowley, 1323 Lake Shore Blvd., 09-10-103-021 requesting 1 variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-2 be granted because the petitioner did demonstrate the follow standards for the variance have been met in this case and that they set forth facts that show:

1. The petitioner did show the following practical difficulty: there has been a change in the rules since the home was built in 1995 and the proposed deck will match and replace the existing footprint of the previous deck that was there because it was the original deck and there are some concerns from the builder in terms of its safety.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: it is on a lake with a deck that was built in 1995 and it has some safety concerns.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the fact that most of the homes in the area have decks and the petitioner is trying to replace an existing deck with safety concerns.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based upon the following findings: the Fire Marshall does not have any concerns about the construction of the deck nor the placement of the stairs as recorded.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, and it would not unusually increase congestion on public streets. There is also not going to be an increase of fire, or endanger public safety, and is not going to unreasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township due to the fact that Mr. Cowley did speak to one of his neighbors who had concerns about the visibility and Mr. Cowley did make modifications in order to address the neighbor’s concerns.

Roll call vote was as follows: Kerby, yes; Flood, yes; Van Tassel, yes; Cook, yes; Durham, yes. Motion passes 5-0.


Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking variances from Sign Ordinance #153
Section 7 – Non-Residential Zoned Areas; Ground Signs Zoned IC

1. 3.83-ft. height variances above the allowed 8-ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 11.83-ft. tall each.
2. 4.38-sq. ft size variances above the allowed 35-sq. ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 39.38-sq. ft. each.
3. An 8-ft. road right-of-way setback variance from the required 20-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the road right-of-way each.
4. A 6.5-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4B to be 13.5-ft. from the road right-of-way.
5. A 19-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4E to be 1-ft. from the road right-of-way.
6. A variance for 7 ground signs over the 2 allowed for a total of 9 ground signs.

Zoning Ordinance #78, Section XIX, Section 19.04 - Zoned IC
7. An 88-ft. front yard setback variance from the required 100-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the front Property line each (west).
8. An 86.5-ft. front yard setback variance from the required 100-ft. for ground sign #4B to be 13.5-ft. from the front property line (west).
9. A 99-ft. front yard setback variance from the required 100-ft. for ground sign #4E to be 1-ft. from the front property line (north).

Mr. Mike Wick, architect, introduced himself and Mr. Roger Briddick, Fairmont Signs, to the Board and summarized the variance request. General Motors has contracted with Fairmont Sign to change out all signs to the new logo at several of their sites.

Chairman Durham stated that nine variances are a lot and added that General Motors is a very large property with several entrances that are accessed in different ways, so it requires a lot of signage.

Mr. Wick stated that all the variance requests are for updating existing signage with the new logo.

Trustee Flood thanked the Planning and Zoning Department for the materials presented to the Board. He complimented the petitioner on the completeness of their application and materials. He stated that the practical difficulty is that they are the only IC zoned property in the Township because of the size of the plant. Also, they were in full compliance when the complex was built but the ordinances have changed since that time. Also, they are moving one sign out of the right-of-way. The renderings show the road right-of-way. He doesn’t think the address needs to appear on the signs.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Vice-chairman Cook asked about the Solar Currents.

Mr. Wick replied that it is a green project within the GM site and the petitioner explained.

Board Member Van Tassel pointed out the language on a proposed sign.
Trustee Flood moved, and Board Member Van Tassel supported in the matter of ZBA case # AB-2022-11, Fairmont Sign Company for General Motors, 4555 Giddings Rd., 4550 Giddings Rd., 1971 Brown Rd. (09-34-200-006) & 4555 Giddings Rd. (09-34-400-011) that the petitioner’s request for variances from Sign Ordinance #153, Section 7 – Non-Residential Zoned Areas; Ground Signs Zoned IC:

1. 3.83-ft. height variances above the allowed 8-ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 11.83-ft. tall each.

2. 4.38-sq. ft size variances above the allowed 35-sq. ft. for 4 ground signs (#4A, #4B, #4C & #4E) to be 39.38-sq. ft. each.

3. An 8-ft. road right-of-way setback variance from the required 20-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the road right-of-way each.

4. A 6.5-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4B to be 13.5-ft. from the road right-of-way.

5. A 19-ft. road right-of-way setback variance from the required 20-ft. for ground sign #4E to be 1-ft. from the road right-of-way.

6. A variance for 7 ground signs over the 2 allowed for a total of 9 ground signs.

Zoning Ordinance #78, Article XIX, Section 19.04 - Zoned IC

7. An 88-ft. front yard setback variance from the required 100-ft. for 2 ground signs (#4A & #4C) to be 12-ft. from the front Property line each (west).

8. An 86.5-ft. front yard setback variance from the required 100-ft. for ground sign #4B to be 13.5-ft. from the front property line (west).

9. A 99-ft. front yard setback variance from the required 100-ft. for ground sign #4E to be 1-ft. from the front property line (north).

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 this case:

1. The petitioner does show the following Practical Difficulties due to unique characteristics of the property: IC (Industrial Complex Zoning). Size: four-hundred-sixty-seven acres, totaling one (1) square mile. Location: Southeast quadrant of the township. Surrounded on three (3) sides by four (4) lane major roadways: To the south, Brown Road (boarding the City of Auburn Hills), to the north, W. Silverbell Road and to the west, Giddings Road.

The total number of variances, nine (9) requested, is due to the unique size and scope of the well-established IC zoned property. To remain in compliance of the current updated township ordinances, since the property was rezoned from an airport zoning to IC (Industrial Complex) Zoning, site plan approved/developed and is in full compliance of the township ordinances (standards) as required in the late 1970’s early 1980’s and the petitioners request for the nine (9) variances is NOT self-created.
2. The 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 zone:

The property is exceptional and extraordinary, due to the fact, it is the only property zoned IC (Industrial Complex) within the boundaries of the Township due to its location, size and unique characteristics.

3. 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 facts:

In the same vicinity, located along the opposite side of the surrounding three (3) major roadways (Brown, W. Silverbell and Giddings), are numerous commercial and IP (Industrial Park) zoned properties displaying their respective signages alongside their respective ingress/egress connections to the roadways.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings: Replacing the old outdated and worn signs with the new rebranded signage, and location setbacks alongside the three major roadways, will be beneficial to the public at large for the numerous ingress/egress roadway connections located on the IC zoned four-hundred-sixty-seven (467) acre site.

5. The granting of this variance would not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets primarily because proper signage and location assist preventing congestion/confusion along the three (3) major roadways surrounding the IC zoned four-hundred-sixty-seven (467) acre site.

6. The granting of the variance will not increase the danger of fire or endanger public safety, specifically, an email dated, March 21, 2022, from the Township Fire Marshall, states, “have no concerns at this time”. The granting of the variances will not impede or impair the ingress/egress line of sight distance. All signs located on the site’s zoned property. Not encroaching into the RCOC 120-foot road Right-Of-Way (ROW), as measured from the road centerline of 60 feet on each side. In fact, the petitioner is removing sign #4E from the road right-of-way, alongside W. Silverbell Road, and being relocated several feet further back from the road right-of-way onto the sites zoned property. Actually, one foot to be exact.

7. The granting of the variance will not unreasonably diminish or impair established property values within the surrounding area or, in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Charter Township of Orion.

Board Member Van Tassel stated that if all the signs at the General Motors complex met all the setbacks, there would be more accidents in this area because people would have trouble locating all the specific gates. This is a case where General Motors placed the signs in the right locations to allow for visibility. This property was rezoned to IC in 1980 and construction did not start until 1981.

Roll call vote was as follows: Van Tassel, yes; Cook, yes; Kerby, yes; Flood, yes; Durham, yes. Motion passes 5-0.

D. AB-2022-12, Michael Kiekbusch, 829 Rustic Village Ln., 09-09-302-011

Chairman Durham read the petitioners request as follows:
The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SE

Article XXVII, Section 27.02, Lot Size 1 to 2.5 acres
1. A 120-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 660-sq. ft. pole barn in addition to a 624-sq. ft. attached garage and a 336-sq. ft. shed.

Mr. Mike Kiekbush introduced himself to the Board and summarized the variance request.

Chairman Durham asked what he was looking to store in the new building that he doesn’t have room for now.

Mr. Kiekbush replied his wife’s car. His current garage has his wood shop contained in it which takes up room. He pointed out that he has 2.3 acres, and his property is close to the 2.5 acres which would give him additional allowance of square footage.

Chairman Durham asked if there was a commercial aspect to the activity.

Mr. Kiekbush replied no.

Trustee Flood asked about the driveway.

Mr. Kiekbush explained the driveway location.

Trustee Flood commented that the petitioner reduced the size to get it to 120 square feet over and the proposed meets all the setbacks.

Board Member Van Tassel provided historical background on the ordinance revisions. At that time, residents didn’t have toys and things that they have now. She suggested that the Zoning Board of Appeals re-examine this section of the ordinance. She stated that this request is reasonable especially when you consider changing conditions over time.

Trustee Flood concurred. He stated that if this petitioner had .2 additional acres, he would not need a variance.

Vice-chairman Cook asked if the petitioner's wife's car was going to be in the pole barn.

Mr. Kiekbush replied no; he would be moving the woodworking shop into the pole barn. He stated that he is planning on heating the pole barn with propane.

Chairman Durham suggested that the petitioner watch the dust produced by the woodworking activities.

Trustee Flood commented that the Fire Marshall has no concerns with this proposal.

Vice-chairman Cook asked if the petitioner was building it himself.

Petitioner replied yes.

Vice-chairman Cook asked about the power lines on the property.

Mr. Kiekbush answered that there are two power lines present, and he will be 15 feet from the power line so it will not be an issue.
Vice-chairman Cook moved, and Trustee Flood supported, in the matter of case AB-2022-12, Michael Kiekbush, 829 Rustic Village Ln., 09-09-302-011 that the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned SE, Article XXVII, Section 27.02, Lot Size 1 to 2.5 acres.

1. A 120-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 660-sq. ft. pole barn in addition to a 624-sq. ft. attached garage and a 336-sq. ft. shed.

be granted because the petitioner did demonstrate the following standards for the variance have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: not having enough property, a .2-acre difference.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the property is heavily wooded and in addition, they are only exceeding the total allowable square footage by 120 square feet.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the fact that the petitioner is storing items, this is more a factor of being able to have his wife park in the family garage for health, safety and comfort.

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located. the Fire Marshall has no issue with the proposed construction of the pole barn in addition, the owner and constructor has taken into account the locations of the property lines. There has also been some discussion on heat sources and the generation of sawdust or other things that might cause an explosion.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on the public streets due to the placement on the property meeting all yard setbacks. There is also not going to be an increase of fire or endanger of the public safety due to the fact that the petitioner is aware that he must be cognizant of whatever heating source he will use and the fact that it most likely will be built to be a woodworking shop. The variance 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.

Roll call vote was as follows: Flood, yes; Kerby, yes; Cook, yes; Van Tassel, yes; Durham, yes. Motion passes 5-0.

E. AB-2022-10, Amended Zoning Board of Appeals By-Laws

Chairman Durham read the proposed new sections and revised sections into the record.

Trustee Flood moved, and Board Member Van Tassel supported, that the Zoning Board of Appeals has noted the list of Articles and Sections of the amended Zoning Board of Appeals By-Laws that contain proposed changes and to bring that draft of the amended By-Laws back for possible adoption at the April 25, 2022, Zoning Board of Appeals meeting.
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Trustee Flood stated that the Board received this on March 11, 2022, so the Board Members had a chance to provide input. This item went before the Township Board with the Planning Commission By-Laws last Monday, April 4, 2022, so they also had the opportunity to provide input.

Roll call vote was as follows: Cook, yes; Flood, yes; Van Tassel, yes; Kerby, yes; Durham, yes. Motion passes 5-0.

6. PUBLIC COMMENTS
None

7. COMMUNICATIONS
See below.

8. COMMITTEE REPORTS

Board Members discussed the Ad Hoc Fence Committee and the notes that were provided to the Chairman regarding their findings.

9. MEMBER COMMENTS

Vice-chairman Cook commented that there should be a demonstration plot in the Township to show residents alternatives to fencing like arborvitae or shrubs so they can see what it would look like.

Board Member Van Tassel suggested an area that a resident can view vegetation that could be used as an alternative. She stated that there is a section in the zoning ordinance regarding allowable landscape. She stated that the Committee will give some consideration to illustrating alternatives.

Board Members discussed having examples readily available to residents when they come to the Township offices, and they inquire about putting up a fence.

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board Member Van Tassel, to adjourn the meeting at 8:22 pm.

Vote was as follows: Cook, yes; Flood, yes; Kerby, yes; Van Tassel, yes; Durham, yes. Motion passes 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary