The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, April 24, 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  
JoAnn VanTassel, Alternate Board member

**ZBA MEMBERS ABSENT:**
Tony Cook, Vice-Chairman  
Diane Dunaskiss, Board member

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

**OTHERS PRESENT:**
Sandra Young  
Barry Young  
Jennifer Austin

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

2. **ROLL CALL**

3. **MINUTES**

A. **04-10-23, ZBA Regular Meeting Minutes**

   Board member VanTassel moved, seconded by Trustee Flood, to approve the 04-10-23 minutes as amended, page 11, changing “property” to “project”.

   Vote was as follows: Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 4-0.

4. **AGENDA REVIEW AND APPROVAL**

   Trustee Flood moved, seconded by Board member VanTassel, to approve the agenda as presented.

   Vote was as follows: Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 4-0.

5. **ZBA BUSINESS**

   A. **AB-2023-08, Barry Young, 1301 Beach Dr., 09-16-229-039**

   Chairman Durham read the petitioner’s request as follows:

   The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-2  
   Article VI, Section 6.04
1. A 4-ft. side yard setback variance from the required 6-ft. for a shed to be 2-ft. from the property line to the west

Article XXVII, Section 27.02 (A)(8)


Mr. Barry Young introduced himself and summarized the variance request. He stated that the shed will be located back far enough from the lake so that it does not impede the neighbor's view but also so he can use it to store lake items and patio items. He explained the need for storage on his property.

Chairman Durham commented that there is not a lot of room for storage in 112 square feet.

Mr. Young explained the lake items that he needs to store.

Trustee Flood complimented Mr. Young’s neighbor on his arborvitae that are present on the property.

Mr. Young stated that the proposed shed will probably be 2.5 feet from the neighbor's fence and he explained.

Trustee Flood commented that the practical difficulty is the septic field and the fact that the petitioner has a nonconforming lake lot.

Mr. Young added that he would like to stay off of the raised septic field with the proposed shed.

Trustee Flood reiterated the practical difficulty being the nonconforming lot and presence of the septic field. He stated that he was surprised that the property was not serviced by sewer.

Board member VanTassel provided a brief history of the presence of sewer in the Township.

Chairman Durham read a letter into the record from seven neighbors who expressed support of the variance request.

Mr. Young stated that he visited the neighbors and explained the proposed project.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood stated that the Fire Marshal had no concerns with the variance request.

Board member Walker thanked the petitioners for bringing a case before the Board that should be presented and he explained.
Trustee Flood moved, and Board member Walker supported, in Case AB-2023-08, Barry Young, 1301 Beach Dr., 09-16-229-039 that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned R-2, Article VI, Section 6.04 including a 4-ft. side yard setback variance from the required 6-ft. for a shed to be 2-ft. from the property line to the west and Article XXVII, Section 27.02 (A)(8) for a 112-sq. ft. variance above the allowed 750-sq. ft. Maximum floor Area of Detached Accessory Buildings to construct a 112-sq. ft. shed. 2 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05 (H)(2) including a 10-ft. side yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the side property line to the south and a 10-ft. rear yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the rear property line to the west 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 did demonstrate a practical difficulty: due to the uniqueness of this nonconforming lot, the septic system and septic field are in the backyard.

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: as stated, this is a 50 foot lot on the lake and the presence of the septic and field determine the proposed location.

3. The variance is 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 petitioner has demonstrated that he needs space to clear items for his grandchildren.

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 there are letters of approval from surrounding neighbors that have no problems with the granting of this variance and it will not affect their property values.

5. The granting this variance would not impair an adequate supply of light or air to the adjacent property, in fact, the adjacent property has beautiful vegetation along the side where the shed will be installed. The variance will not unusually increase congestion on the public streets. There is also not going to be an increase of fire, based on the report from the Fire Marshall in which he says he has no issues with this variance. 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 Charter Township of Orion.

This property does not vary much from other properties in this immediate area and in looking at the aerial photos; most of the neighbors have sheds for storage of lake toys. The request is in line with what has been granted to other neighbors. By having a shed to store items, this will not increase traffic beyond the traffic that is already there.

Roll call vote was as follows: VanTassel, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 4-0.

6. PUBLIC COMMENTS

Ms. Jessica Austin introduced herself and commented on a case that appeared at the last meeting regarding a garage that was moving into a private stable. She received some information from the Health Department and she shared that information with the Board regarding the entire Mill Creek area surrounding that subject lot. She commented on the septic property for the subject lot to determine if the tear up of the front yard was a concern. She conveyed the information from Oakland County Health Division regarding the septic request for the subject property. She stated that she needs help because her property is 25 feet from a property that is in the wetlands and was denied a septic system but there are people living there. She stated that the current owners are getting ready to sell.
Chairman Durham commented that he understands why she is here but this Board has a very limited scope and he explained the jurisdiction of the Board.

Ms. Jessica Austin explained her experience with Orion Township and submitting complaints and why she needs help at this point.

Building Official Goodloe stated that there is a current violation to remove the building and the Code Enforcement department is aware of the manure issue on the property. He explained the process that the Township follows for code enforcement. He encouraged Ms. Austin to contact the Department of Agriculture.

Ms. Austin stated that the Department of Agriculture encourages farming but this subject property is not conducive for farming and agriculture. She expressed her frustration about following the complaint system and nothing is done. She reiterated the fact that the subject property does not have a functional septic system according to Oakland County.

Trustee Flood stated that he appreciates Ms. Austin’s due diligence but this Board has no authority. He reiterated the variance being considered and explained that many times it turns into a civil matter in which the Township has no authority.

Building Official Goodloe stated that the ball is in motion on this property but it takes time because they have to go through the process. He explained the Township’s process.

Trustee Flood reiterated the Zoning Board of Appeals role.

Building Official Goodloe stated that he will look into the septic matter.

Board member VanTassel asked what would Ms. Austin like the Township to do.

Ms. Austin explained how she would like the Township to help her.

Board member VanTassel encouraged Ms. Austin to go to the Building Department and Planning Department and ask to be notified if anything comes up with this subject property and she explained.

Ms. Austin continued expressing her concerns with the property.

Chairman Durham confirmed that Building Official Goodloe has expressed that the subject property is currently under ordinance enforcement work and he explained the process that is involved.

7. COMMUNICATIONS

Chairman Durham commented on the memo from Lynn Harrison.

Board member Walker updated the Board members on the upcoming Library Book sale. He asked about the payment required to participate in No Haz program.

Trustee Flood stated that they did pay back in 2012 and it was a $10 co-pay and he explained the increase cost of No Haz participation. He will provide a presentation at an upcoming Township Board meeting and he will let the Zoning Board of Appeals members know when it is scheduled.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

10. ADJOURNMENT
Moved by Trustee Flood, seconded by Board member VanTassel, to adjourn the meeting at 7:47 pm.

Vote was as follows: Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 4-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary