The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, May 9, 2022, at 7:00 pm at the Orion Township Community Center, 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

**ZBA MEMBERS ABSENT:**
- Tony Cook, Vice-Chairman

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

**OTHERS PRESENT:**

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

2. **ROLL CALL**

3. **MINUTES**

   A. **04-25-2022, ZBA Regular Meeting Minutes**
   
   Board member Dunaskiss moved, seconded by Trustee Flood, to approve the 04-11-2022 minutes as presented.
   
   Motion Carried 4-0

   B. **04-25-2022, Special Meeting Minutes**
   
   Trustee Flood moved, seconded by Chairman Durham, to approve the 04-25-2022 Special Meeting minutes as presented.
   
   Motion Carried 4-0

4. **AGENDA REVIEW AND APPROVAL**

   Trustee Flood moved, seconded by Board member Dunaskiss, to approve the agenda as presented.
   
   Motion Carried 4-0

5. **ZBA BUSINESS**
A. AB-2022-15, James Garris, 215 N. Conklin Road, 09-01-403-014

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 Article VI, Section 6.02(N)(3)

1. A 23.5-ft. front yard setback variance from the required 40-ft. to install an inground pool 16.5-ft. from the front property line along De Goff Ct.

2. A 30-ft. front yard setback variance from the required 40-ft. to install an inground pool 10-ft. from the front property line along Orion Ter.

Mr. Garris (Mr. James Garris’ son) introduced himself to the Board.

Chairman Durham asked about the handwritten drawing that was included in the packet. He asked if it was to scale. He stated that the property is surrounded by front yards.

Mr. Garris stated that the measurements on the drawing are accurate.

Board member Walker asked if there were any stakes.

Mr. Garris replied no.

Board member Walker concurred with Chairman Durham and agreed that he did not see how a pool would fit in the area indicated. He asked if the property had been surveyed.

Mr. Garris replied that he has not had the property professionally surveyed.

Mr. Garris stated that the deck will be removed. He pointed out the 13-foot distance on the drawing and said that this is where the current deck is.

Trustee Flood asked what type of privacy fence is going around the pool.

Mr. Garris stated that it will be the same type of fence that is currently along the north side of the back property. It is a solid fence.

Trustee Flood stated that he is concerned about the setbacks and the corner sight distances.

Mr. Garris stated that the privacy fence is going almost all of the way. At the southwest corner where the telephone pole is, he doesn’t have the fence running across the 45 degrees to allow for sight.

Board member Dunaskiss asked if it was a 6-foot fence.

Mr. Garris replied it is a 4-foot fence along the west lot line and the south lot line.

Board member Walker asked how much space is going to be between the fence and the pool’s edge.

Mr. Garris replied 16 feet, 6 inches on the south line and 10 feet on the west line.

Trustee Flood confirmed that the fence would not be in the corner.

Board member Walker stated that he is concerned that cars would not be able to see, and this would impact the traffic. The neighbors agree but because it is so small that he worries about sight distance.

Building Official Goodloe stated that if it is a lockable cover, they do not need a fence all the way around.
Mr. Garris confirmed that there is not a fence in the corner where Board member Walker has a concern. He is going to place landscaping around the pool, but this will not affect sight distance. He plans on using ornamental grass.

Board member Walker asked Building Official Goodloe if the variance was approved based on the fact that there is a lockable cover, would someone from the department go out and verify.

Building Official Goodloe answered yes, the lockable cover would need to be inspected and they would also inspect to make sure that the sight distance is not affected.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Trustee Flood asked if there were any letters received by the Township.

Chairman Durham confirmed that there was one letter received that had no issue with the project.

Trustee Flood read a letter into the record from Lail Gulley, 236 Orion Terrace, that supported the project dated April 29, 2022. He also read a letter dated April 27, 2022 from a neighbor adjacent to the subject property, Justin and Carly Heirs, who have no issue with the project or the variances requested. The Fire Marshall also submitted a letter expressing no concerns about this project.

Board member Walker moved, seconded by Trustee Flood, that in the matter of ZBA case AB-2022-15, James Garris, 215 N. Conklin Road, 09-01-403-014 that the petitioner’s request for 2 variances from Zoning Ordinance #78 Article VI, Section 6.02(N)(3) including a 23.5-ft. front yard setback variance from the required 40-ft. to install an inground pool 16.5-ft. from the front property line along De Goff Ct. and a 30-ft. front yard setback variance from the required 40-ft. to install an inground pool 10-ft. from the front property line along Orion Ter. be granted because the petitioner did demonstrate the following standards for variance have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulty: due to the uniqueness of the property and it is not related to the general conditions in the area of the property. The petitioner’s property has three front yard setbacks therefore complicating the issue of how much room there is to move in from each of the front yard setbacks.

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: as was indicated, this property has three front yard setbacks, and the petitioner has indicated that the pool will have a locking top that will be installed and in use whenever the pool is not being used.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the fact they have to meet three front yard setbacks.

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.

5. Granting this variance will not impair an adequate supply of light or air to the adjacent properties and it would not unusually increase congestion on public streets. The petitioner has indicated that one side will not have a fence on it and the Building Department upon final inspection will make sure that there are no line-of-sight issues related to any fence that goes up with the installation of the pool. There is also not going to be an increase of fire, or endanger of the 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.

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

B. AB-2022-16, Monish & Carrie Sharma, 4320 Newcastle Dr., 09-07-351-008

Chairman Durham read the petitioners’ request as follows:

The petitioner is seeking 1 variance from Article XXVII, 27.02(8) - Lot size over 2.5 acres

1. A 192-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 660-sq. ft. attached garage.

Tom Inger, representing the homeowners, introduced himself to the Board.

Chairman Durham asked about the previous variances received and were those variances acted on.

Mr. Inger replied yes, by a previous owner. The petitioner purchased the property about 9 months ago. He stated that it was a detached garage located away from the home.

Chairman Durham asked the petitioner to explain the layout of the property.

Mr. Inger agreed that it was an involved piece of property.

Ms. Carrie Sharma introduced herself. They bought the property about 9 months ago and she provided a historical account of the property and the buildings located on it. One of the existing structures on the property was a carriage house but it was converted to a guest house and they intend on keeping this as such. She provided details about former variances received for a garage far from the house. They want to attach a garage to the home.

Chairman Durham asked if the garage is on the plan.

Mr. Inger replied yes, and the two-story addition is behind it. The two-story addition doesn't require a variance, just the garage.

Trustee Flood stated that he sees the practical difficulty about needing an attached garage. The petitioner shouldn't have had to appear before the Board because they are held to a 2.5-acre amount. The ordinance needs to be reviewed especially for these large parcels.

Board member Dunaskiss asked if they plan to keep the accessory buildings.

Ms. Sharma stated that the four-car detached accessory structure is aesthetically pleasing and they intend to keep it and use it for storage. The metal structure they are not sure if they are keeping it but are probably going to take it down.

Board member Walker commented on the historical room at the Clarkston Library.

Chairman Durham asked if there was any public comment on this case.

No public comment was heard.
Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA case AB-2022-16, Monish & Carrie Sharma, 4320 Newcastle Dr., 09-07-351-008 that the petitioners’ request for 1 variance from Article XXVII, 27.02(8) - Lot size over 2.5 acres including a 192-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 660-sq. ft. attached garage be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty: this is a large property and there is ample space to build a garage, however, the garage that they currently have is too far from the home given the weather conditions in Michigan to be practical. The garage being attached to the home makes much more sense and is much more practical.

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: this property is very large and can easily handle a garage and based on the above, an attached garage is more practical for a family.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity.

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.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, 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.

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

C. AB-2022-17, Duane Anderson, 2455 Armstrong, 09-21-354-002

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 6.28% lot coverage variance above the allowed 25% for a total lot coverage of 31.28% to install a 620-sq ft. inground pool.

Mr. Duane Anderson introduced himself and summarized the variance request. They have owned the property for 23 years. One of the neighbors did express concern over the noise but since both he and his wife are older; he does not see that to be a problem.

Chairman Durham confirmed that it is a wide lot with plenty of room to do what they want.

Trustee Flood commented that this petitioner is installing the same pool as his neighbor. The noise factor is handled by the ordinance department. He read a letter from Bill Kitchner, neighbor, dated May 2, 2022 objecting to the pool variance because of the noise generated by a pool.

Building Official Goodloe asked about the easement on the back of the property.
Mr. Anderson replied that he is not sure. The back of the pool will be approximately 16 feet from the back of the property.

Building Official Goodloe stated that it doesn’t look like a drainage easement. Drainage complaints are the biggest complaints that they receive.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Trustee Flood asked about fencing.

Mr. Anderson replied a 4-foot privacy fence.

Trustee Flood stated that the Fire Marshall had no problem with this case.

Board member Walker moved, seconded by Chairman Durham, in the matter of ZBA Case # AB-2022-17, Duane Anderson, 2455 Armstrong, 09-21-354-002 that the petitioner’s request for 1 variance from Zoning Ordinance #78 Article VI, Section 6.04 - Zoned R-2 including a 6.28% lot coverage variance above the allowed 25% for a total lot coverage of 31.28% to install a 620-sq ft. inground pool be granted 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. Due to the uniqueness of the property and fact that the neighbor has a similar pool. The petitioner indicated that he would be surrounding the pool with 4-foot wrought iron fence.

2. The variance is also necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity.

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.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. Pursuant to the Fire Marshall, the variance will not cause an increase of fire, or endanger public safety. The granting of the variance 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.

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

D.  AB-2022-18, Jeff Hanson, 3935 Maybee Rd., 09-30-200-037

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Article XXVII, 27.02(8) - Lot size over 2.5 acres

1. A 476-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to add a 968-sq. ft. addition to a 440-sq. ft. garage, and an existing 468-sq. ft. carport.
Mr. Jeff Hanson introduced himself and summarized the variance request to retain an existing carport.

Board member Dunaskiss asked about this variance in relation to the first one.

Mr. Hanson replied because his is detached.

Trustee Flood explained the long bowling alley style lot. He summarized a variance request on this property for a fence. This petitioner is in the same position because he has over 4 acres and is forced to come to the Board.

No public comment was heard in this case.

Trustee Flood moved, seconded by Board member Dunaskiss, in the matter of ZBA Case # AB-2022-18, Jeff Hanson, 3935 Maybee Rd., 09-30-200-037 that the petitioner's request for one variance from Article XXVII, 27.02(8) - Lot size over 2.5 acres specifically for a 476-sq. ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to add a 968-sq. ft. addition to a 440-sq. ft. garage, and an existing 468-sq. ft. carport be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty: petitioner has a 4-acre parcel zoned Suburban Farms and the request is well within the scope of that size of property.

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 petitioner wants to retain the carport which has to be included in this calculation.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity. The petitioner will connect this building in line with his other buildings and it will not be seen from the road. Petitioner has a long property consisting of 4 acres.

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 as previously stated.

5. Granting this variance will not impair an adequate supply of light or air to adjacent properties, 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 the Fire Marshall has no concerns in this matter. The variance is not going to unreasonably diminish or impair established property values, in fact it will probably increase the property value, 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: Dunaskiss, yes; Walker, yes; Flood, yes; Durham, yes. Motion Carried 4-0.

6. PUBLIC COMMENTS

7. COMMUNICATIONS
Chairman Durham commented on the Zoning Training opportunity included in the packet.

8. COMMITTEE REPORTS
Trustee Flood thanked the Board for closing the Judah Road project out.

9. MEMBER COMMENTS
Board member Walker commented on the upcoming Library Book Sale.
10. ADJOURNMENT

Moved by Trustee Flood, seconded by Chairman Durham, to adjourn the meeting at 7:51 pm. Motion Carried 4-0

Respectfully submitted,

Erin A. Mattice
Recording Secretary