The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, May 10, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Don Walker, PC Rep to ZBA
Derek Brackon, Secretary
Mike Flood, BOT Rep to ZBA
Tony Cook, Vice-Chairman

ZBA MEMBERS ABSENT:
None

CONSULTANT PRESENT:
Tammy Girling, Director, Planning and Zoning

OTHERS PRESENT:
Douglas McKay        Ronald Foley        Jacquelin Bray
Richard Bone         Aaron Clark         Michael Schwarzenberger
Rod Cotter           B.C. Cotter         Gary Sworek
Stephanie Swearingen Robert Bean         Keith Dion
David McNab          Pamela Madden       Mari Herbert
Al Herbert            Edwin Keez         John Klein
Melody Griffin        Tim Wienner        Scott Heizer

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

2. ROLL CALL
As noted

3. MINUTES
A. 4-12-2021, ZBA Regular Meeting Amended Minutes
Moved by Board member Flood, seconded by Chairman Durham, to approve the minutes as amended, page 12, “applicant should” changed to “applicant shall”.
Motion carried.

4. AGENDA REVIEW AND APPROVAL
Moved by Vice-Chair Cook, seconded by Board member Flood to approve the agenda as amended, moving items I. and J. ahead of item D.
Motion carried.

5. ZBA BUSINESS

Petitioner withdrew her request on 4/22/2021.

B. **AB-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006**

Chairman Durham read the petitioner’s request as follows:

The petitioner is requesting 1 variance from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3
1. A 5-ft. side yard setback variance from the required 10-ft. to build a home addition above an existing attached garage 5-ft from the property line (south).

Ms. Swearingen introduced herself to the Board.

Chairman Durham asked for clarification on whether or not the garage was proposed or existing.

Ms. Swearingen replied existing. The garage had a previous variance received in the 1990’s.

Board member Flood asked if she was increasing the variance or using the same footprint.

Ms. Swearingen replied that it is using the same footprint, they are just going up.

Chairman Durham asked if the garage being built higher would take away from anyone’s lake view across the street.

Ms. Swearingen replied that it will not. It is a marsh area across from the garage and is not buildable.

Vice-Chair Cook asked if her boat was parked on the property and if she plans on moving it.

Ms. Swearingen replied yes. It is her husband’s project and hopefully will be moved this summer.

Vice-Chair Cook asked how she is planning on addressing the existing tree in the front yard. He is asking about the tree that will be in front of the garage.

Ms. Swearingen stated that the tree that would be in the way of a paved driveway will be removed.

Board member Walker asked the petitioner why she needs to do this.

Ms. Swearingen explained the bi-level structure of the house. She explained that they will move the master bedroom on the same floor so they are on the same level as their two children for security reasons.

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

No public comment was heard.

Chairman Durham asked if they will have adequate egress for the addition.

Ms. Swearingen replied yes, they are looking at a staircase into the garage. The exits would be the main ones and the deck would allow them to get out.

**Board member Walker motioned, and Trustee Flood seconded that in Case #AB-2021-13, Stephanie Swearingen, 1125 Elkhorn Lake Road, 09-10-329-006, to approve the petitioner’s request for one variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-3, 5-ft. side**
yard setback variance from the required 10-ft. to build a home addition above an existing attached garage 5-ft from the property line (south), because the petitioner did demonstrate the following standards for variances have been met in this case and they set forth facts that show:

1. The petitioner does show a practical difficulty; there is a safety factor in that the petitioner does has two young children and this variance would allow them to sleep on the same floor. In addition, it would not increase the five-foot variance that was already granted for the garage because it is being built directly on top of the garage.

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

3. 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 improvement in such zone or district in which the property is located.

4. Based on the following findings of fact, granting this variance would not impair an adequate supply of light and air to the adjacent property based on the positioning of the house. It would not unusually increase congestion in the public streets. There is also not going to be an increase of fire, or endanger of the public safety, and it will actually help. Granting the variance also will not reasonably diminish or impair established property values within the surrounding area. This will more likely than not increase property values of everyone around and the neighbors support this construction. Granting this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.

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

C. AB-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks Street, 09-10-204-016

Chairman Durham read the petitioner’s request as follows:
The petitioner is requesting 1 variance from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-3 & Article XXVII, Section 27.02 (A)(3)

1. A 17.1-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 12.9-ft. from the property line along Shady Oaks (east).

Mr. Aaron Clark introduced himself to the Board. He explained the variance request for the construction of a new home. He explained the home construction which will be built on pilings.

Board member Flood commented that they had a letter regarding this case from a resident. They also have a letter from the Planning and Zoning Department saying that at one time this lot was bigger but the Road Commission took 25 feet off of the property in 1988.

Mr. Clark stated that it was a true 70’ by 70’ lot before the Road Commission came through.

Chairman Durham read the resident letter into the record from Benjamin Tong, 395 Shady Oaks, opposing the variance because the vision angle will be obstructed and because the proposed house would obstruct his view of Dollar Bay. Chairman Durham read a letter from the Planning and Zoning Department indicating that the lot does meet the 30 foot requirement.

Board member Flood asked how long the existing garage had been there.

Mr. Clark replied he did not know. It is being demolished.
Board member Flood asked about the existing stake that says garage. He asked if this would be the front of the garage.

Mr. Clark stated that this would be the front of the new garage at the 30 foot setback line. He confirmed that he is increasing the setback from the road side with demolishing the existing garage and the placement of the new structure.

Board member Flood commented that the resident who wrote the letter is across the street and on Lake Orion. He stated that Mr. Clark should be able to enjoy his view of the lake the same as his neighbor.

Chairman Durham commented that Board member Flood is indicating that lake view will not be a problem.

Board member Flood stated that if a two story house is built, yes, the neighbor will not be able to see over to Little Dollar Bay but this neighbor also enjoys full lake rights on Lake Orion. The side setbacks are okay and the lot coverage is okay, the petitioner only needs relief off of the corner and this is another practical difficulty. Since he is on a corner lot, he has two front yards.

Chairman Durham asked if there was any public comment.

Vice-Chair Cook moved, seconded by Board member Flood, in Case # AB-2021-14, Aaron Clark, Parcel on the Northwest Corner of Dollar Bay Drive & Shady Oaks Street, 09-10-204-016 to grant one variance from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-3 & Article XXVII, Section 27.02 (A)(3) to grant a 17.1-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 12.9-ft. from the property line along Shady Oaks (east) because the petitioner did demonstrate that the following standards for variances have been met:

1. The petitioner does show the following practical difficulty; at some point years ago, the lot which was originally 70 feet by 70 feet was shortened by 25 feet due to the widening of the road.

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: although the property is a bit smaller than others, it has not been fully developed and at some point was used to house a garage. The difficulty is that although it is a buildable lot, it has never been taken fully advantage of in terms of the actual square footage where a home could have been built.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following findings of fact: the property is a buildable lot, the owner of the property has taken into account that it will require pilings in order to build on that property in order to achieve the enjoyment of that particular piece of property.

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 improvement in such zone or district in which the property is located based on the following: the owner, while he is going to build a two-story home, the Zoning Board heard from one individual who was concerned about the view of Dollar Bay being block but this same homeowner does have a complete view of Lake Orion so it will not be detrimental to any of the people who have come forward.

5. Based on the following findings of fact, the granting this variance would not impair an adequate supply of light and air to the adjacent property, it would not unusually increase congestion on the public streets. The intersection has been measured and it has been determined that it will not impair the sight distance. There is also not going to be an increase of fire, or endanger of the public safety, and is not going to reasonably diminish or impair established property values within the surrounding area, in fact, it will improve them based upon the size of the house square footage. The
granting of this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.

Board member Flood added that with the removal of the existing garage on that property and the building of the new structure will increase the line of sight on that corner of Dollar Bay and Shady Oaks Drive. Vice-Chair Cook supported the amendment.

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

D. AB-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013

Chairman Durham read the petitioner’s request as follows:
The petitioner is seeking 3 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-1
1. A .6-ft side yard setback variance from the required 10-ft. for an existing detached shed to be 9.4-ft from the property line to the east.
2. A 3-ft. side yard setback variance from the required 10-ft. for an existing deck to be 7-ft. from the property line to the east.
Article XXVII, Section 27.02 (A)(8)
3. A 572-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 1,730-sq. ft. attached garage and a 342-sq. ft. existing detached shed.

Mr. Schwarzenberger introduced himself to the Board. He explained the variance request to the Board members.

Chairperson Dunham asked about the existing 342 square foot existing detached shed. He asked if he petitioner constructed this shed and the deck.

Mr. Schwarzenberger replied no.

Chairperson Dunham confirmed that the only new structure is the 572 square foot request above the maximum of 1500 square feet to build a garage.

Mr. Schwarzenberger answered yes.

Vice-Chair Cook asked about the purpose of the property.

Mr. Scharzenberger replied this was their dream home.

Vice-Chair Cook asked if the existing shed was a rental property currently.

Mr. Scharzenberger replied that he doesn’t know; he is going to use it for storage.

Vice-Chair Cook stated that there are some indicator wetland species as you come into the property and that has been disturbed.

Mr. Schwarzenberger asked if he was talking about the invasives.

Vice-Chair Cook replied that they may be invasives, but they are wetland indicators so you have to be very careful to avoid fines. He asked if the roof on the existing home was new.

Mr. Schwarzenberger answered that he did not put the roof on; he just purchased the property in January.
Board member Flood commented that the first variance was only seven inches into the setback. He stated that he is sure the neighbors must appreciate the effort into restoring the property and structures. He asked about the size of the garage.

Mr. Schwarzenberger answered that the garage is 30 feet by 40 feet.

Chairman Durham asked for public comment.

No public comment was heard.

Board member Walker asked if the petitioner had a basement.

Mr. Schwarzenberger replied no.

Board member Brackon moved, and Board member Walker seconded, in case AB-2021-20, Michael Schwarzenberger, 400 Gan Eden Dr., 09-02-226-013 to grant 3 variances from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-1, a .6-ft side yard setback variance from the required 10-ft. for an existing detached shed to be 9.4-ft from the property line to the east, a 3-ft. side yard setback variance from the required 10-ft. for an existing deck to be 7-ft. from the property line to the east and Article XXVII, Section 27.02 (A)(8), a 572-sq. ft. variance above the allowed 1,500-sq. ft. Maximum Floor Area of All Accessory Buildings to build a 1,730-sq. ft. attached garage and a 342-sq. ft. existing detached shed.

The petitioner did demonstrate that the following standards for variances have been met in this case and set forth facts which show the following:

1. Petitioner does show the following practical difficulties and unique circumstances of this particular piece of property: it is on the lake, it has existing wetlands which need to be taken into account, there is no availability to have any basement which some of his neighbors enjoy and he does not have a current garage.

2. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone such as: petitioner does not have the ability to build any type of basement and he does not currently have a garage.

3. The variances are necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zone or vicinity based on the following fact: petitioner has no basement for storage, no garage for storage which he wants as all of his neighbors have.

4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to property or to improvements as such zone or district in which the property is located based upon the following fact: based on the drawings, the petitioner will not disturb the wetlands any further, there has not been any neighbors that have said they do not want this to happen and will not affect them in any way.

5. This variance will not impair an adequate supply of light or air to adjacent property owners and will not reasonably impact congestion of traffic in the public streets. Variances will not increase the fire danger or endanger the public safety.

6. The granting of the variance is not going to reasonably diminish or impair established property values within the surrounding area, in fact, given the surrounding property values and what the petitioner is doing to improve the property, it will probably increase both his and the neighbor’s property values. Granting this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.
Chairman Durham read a letter of support from Leslie Cole, 360 Gan Eden Drive.

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

E. AB-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Joslyn Ct., 09-21-251-004

Chairman Durham read the petitioner’s request as follows:
The petitioner is seeking 2 variances from Zoning Ordinance #78 Zoned SP-1

Article XXI, Section 21.05
1. A 31.23-ft. rear yard setback variance from the required 40-ft. for a building to be 8.77-ft. from the rear property line (north).
2. A 7.82-ft. side yard setback variance from the required 20-ft. for a building to be 12.18-ft. from a side property line (east).

Mr. Keith Aldridge introduced himself to the Board. He explained his variance request.

Chairman Durham asked if the sale of the property was contingent on success of the request.

Mr. Aldridge replied yes. The owners of Yates will not move forward until the requests are granted and they can split the property.

Board member Flood stated that the Planning Commission has approved all of the requests but they cannot approve this variance because it is a nonconforming property. He commented on the historical nature of the property. He asked if they also did this with the church property.

Mr. Aldridge replied that they converted it to a condominium back in 2014. He wants to make another condominium parcel with Yates Cider Mill.

Board member Flood confirmed that this property is the only property in this zoning.

Chairman Durham asked for any public comment.

No public comment was heard.

Vice-Chair Cook asked if this sale includes the parking lot.

Mr. Aldridge replied yes. The parking lot is split right down the middle. Woodside owns the south half and he owns the north half which is attached to Yates Cider Mill. He will be selling his half of the parking lot.

Board member Flood moved, and Board member Walker seconded, in Case # AB-2021-21, Keith Aldridge, Yates Cider Mill, 2375 Joslyn Ct., 09-21-251-004 to approve 2 variances from Zoning Ordinance #78 Zoned SP-1, Article XXI, Section 21.05, a 31.23-ft. rear yard setback variance from the required 40-ft. for a building to be 8.77-ft. from the rear property line (north) and a 7.82-ft. side yard setback variance from the required 20-ft. for a building to be 12.18-ft. from a side property line (east). The petitioner did demonstrate that the following standards for variances have been met in this case as he set forth facts in this case as follows:

1. Petitioner does show the practical difficulties in that the facility was built back in 1920 and the petitioner is trying to sell a portion of that property and which would not meet today’s standards.

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: this
property is zoned SP-1 and other than newly zoned property on Clarkston Road, this would not have effect on the petitioner’s zoning in this area.

3. The variances are necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zone or vicinity based on the following fact: this is very similar to what Orion did with the Woodside Church which was approved by the Township Board to be converted to a condominium.

4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to property or to improvements as such zone or district in which the property is located based upon the following fact: the petitioner has already been before the Planning Commission who approved the lot split. The petitioner now needs the variances approved to complete the transaction.

5. Based on the following findings of fact, this variance will not impair an adequate supply of light or air to adjacent property owners and will not reasonably impact congestion of traffic, will not increase the fire danger or endanger the public safety, will not reasonably diminish or impair established property values within the surrounding area and granting this variance will not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township of Orion.

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

Chairman Durham asked all public in the room to show each other respect due as residents of the Township trying to solve the problem in front of the Board.

Director Girling explained the reasons for the changed variances. Calling the case would be as it was advertised but upon further analysis of the case, there were a number of units that had a different setback for distance between them which is four of the five cases being heard this evening. On the first case, it was found on the site plan documents that the distance between buildings was 20 feet. The applicant’s formal request is what is shown on the agenda, but in actuality when they calculate with 20 feet between, the variance that he is requesting is less because he doesn’t need as much space between the buildings.

Chairman Durham asked if he should read the adjusted numbers in.

Director Girling replied that he should read what is advertised and what is on the agenda, but with the understanding that a lesser variance is needed.

F. **AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidwell numbers 09-04-402-033 & 034**

Chairman Durham read the petitioner’s request as follows:
The petitioner is requesting 4 variances from Zoning Ordinance #78

1. A 9.39-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20.61-ft from the adjacent condominium unit (south).
2. A 9-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21-ft from an adjacent condominium unit (north).
3. A 1-ft. rear yard setback variance from the required 30-ft. to construct unit 33, 29-ft from the rear property line.
4. A 1.5-ft. rear yard setback variance from the required 30-ft. to construct unit 34, 28.5-ft. from the rear property line.

Mr. Dan MacLeish introduced himself to the Board. The first variance is the side yard setback of 9.39 feet and it is now .69 feet. He confirmed that when they reviewed the original PUD, that was originally a 20
foot setback. Units 33 – 38 are six contiguous sites that are vacant. He stated that they started at the southernmost point of unit 33 and started working north.

Chairman Durham asked if the second variance is needed now.

Mr. MacLeish replied no. He stated that #3 is needed for the back of the proposed deck. He stated that for unit 34, they are asking for a 1.5 foot variance. He stated that he has pictures of adjacent units.

Board member Brackon asked how the size of the proposed units compare to the existing units.

Mr. MacLeish replied that the proposed are 2000 square feet and it is like what is there now which is 1800 square feet to 2300 square feet. They are proposing a one-story ranch condominium.

Board member Brackon asked if these lots were smaller or did they also get variances for the existing units.

Mr. MacLeish replied that this site has a lot of history and he is not sure how they were originally built. He stated that they explored the sewers available. He explained the topography of the site. There are natural reasons why the units were built the way they were.

Board member Brackon stated that it is a concern of residents that what is being proposed is too large for the existing lots. He asked what is the purpose of them being that big as opposed to building something smaller.

Mr. MacLeish stated that they looked at a product that could sell. The proposed units have a front door where most of the existing have side doors. They have their own landscaping company and have plenty of privacy between the decks. They are looking at a price point of $500,000 to start.

Board member Brackon asked if the proposed fit into the plan and they will not stand out in any way.

Mr. MacLeish stated that they staked all the corners and have examined how the placement would fit.

Chairman Durham asked if all of the proposed are being built to one set of plans.

Mr. MacLeish replied that there are two versions, these and a larger version which they are not bringing to the Board.

Chairman Durham asked if they could shrink it down a little more and not need variances.

Mr. MacLeish stated that they tried that but it gets to the point where it doesn’t work with the design, especially when you consider wheelchair accessibility.

Board member Walker asked if they had considered every square foot of the property where these units will be built.

Mr. MacLeish replied yes. They looked at additional property acquisition and had engineers and architects look at the plan so they would not have to go to the Board.

Board member Walker stated that when they add them all up, there are 25 variances.

Board member Flood stated that any rendering by this Board is appealable by State law. He stated that some of these requests are so minor and they should be addressed by the petitioner. Board member Flood stated that they had a letter from a neighbor and a report by the Fire Department.

Board member Brackon read a letter from Barbara Unger opposing the variance requests based on the fact that the units proposed are too large for the property. He stated that they also have a letter from the
Fire Department, Jeff Williams, Fire Marshall, dated 5/10/2021. He read the letter aloud to the Board including all recommendations.

Mr. MacLeish stated that he was aware of the letter from the Fire Department. He stated that they took four feet off of these units from what they have built in the past but they wanted to keep hallways where they could be usable. They were trying to keep the units accessible for wheelchairs.

Director Girling stated that she clarified with the Fire Chief regarding his comments. She stated that if you have 2 feet between the buildings or 60 feet between the buildings, the fire suppression is related to the number of units, it has nothing to do with the spacing.

Mr. MacLeish provided color pictures for the Board members to view.

Chairman Durham asked for public comment.

Ron Foley, Association President, stated that many of the buildings in the development are not in the building envelopes. This is not the fault of Mr. MacLeish. He suggested that the new developments could have landscaping on the side so the residents would not look out to a brick wall. They desperately need these units built out and would help the community sustain itself and would help the budget. He stated that he is one of the original owners. He stated that he understands the residents’ concerns because he would not want a unit 13 feet from his however, some units are closer than that now.

Chairman Durham reiterated that Mr. Foley was saying that done correctly, this would be beneficial for the community.

Mr. Foley stated that he understands that many residents of the development have gotten used to an open lot next to them but they need to know that eventually, something is going to be built there.

Mr. Richard Bone, 50 Burniah Lane, presented photographs to the Board members and he explained these pictures. He stated that these units are proposed to be built next to his residence and he is opposed because it will depreciate the value of the units. He stated that they have asked for elevation drawings but they have not been received so they do not know what the finished products will look like. Mr. Bone continued to express his opposition to the variance requests. When he moved in, they were given the assurance that similar buildings would be built and that would be Tudor type buildings. These are far from Tudor buildings; they are ranch homes with hip roofs.

Board member Brackon asked what lot number Mr. Bone lives in.

Mr. Bone replied #46.

Vice-Chair Cook asked what the existing basement is from.

Mr. Bone stated that the basement was dug some time ago and then it sat during litigation. It was eventually filled it, but the basement is still there.

Board member Flood stated that this was the first PUD ever done in Orion Township and he can understand why it wasn't built why it was supposed to be built. He stated that in a PUD, they can tell the developer what is to be built regarding design and what materials are approved. This is required for the PUD aesthetics. He asked were those previous lots plotted in the previous PUD. He stated that he believes the Township Attorney needs to get involved in this before this Board moves forward. This is his recommendation. This would be fair to both the applicant and the residents.

Mr. Bone agreed.

Board member Flood stated that they have to go through the Township Board to alter a PUD.
Director Girling stated that they have had numerous text amendments to the PUD since it was written and the current ordinance says that although the PUD does not go to the ZBA, this does not stop an individual property owner from coming to the ZBA. This is a builder that has bought the remaining lots, not the developer.

Board member Flood reiterated that he would like the Township Attorney to advise him how to proceed.

Board member Walker suggested that they should get all of the input, but he is not sure a decision should be made today on this.

Mr. Foley provided the history behind the abandoned foundation in the development. He stated that the pictures shown to the Board were not accurate.

Mr. Tom Wienner, 41 Burniah, stated that what is being proposed is 33% larger than the foundation that is there and he explained his opposition to the variance requests. He stated that they are suggesting something out of character for the neighborhood. These variances are not necessary, reasonable or appropriate. He agreed with Board member Flood regarding having it being reviewed by an attorney.

Mr. Doug McKay, 132 Burniah Lane, stated that he has been there for many years. He stated that the development has to be built out. People get used to looking at vacant lots, and get used to no one next to them or across from them. He stated that porches are 10-12 feet from each other now. If these units are not built out, revenue will stop coming in and there will be less funding for HOA. He provided comments about all of the developers that have worked with this development. The Association is behind these requests.

Carol Brock, 101 Burniah Lane, explained her opposition to the variance requests.

Al Herbert, 32 Burniah, explained his opposition to the variance requests and concurred with Mr. Bone.

Jackie Bone explained where they obtained the proposed building plans. She stated that pictures came from Melody from MacLeish Building.

John Klein, 33 Burniah, stated that the whole subdivision is two story buildings and the proposal is for one-story ranch. A two-story building would fit better than a ranch.

Chairman Durham asked Mr. MacLeish for his comments.

Mr. MacLeish stated that some of the people speaking are misinformed.

Board member Brackon asked if two story buildings contemplated for these lots.

Mr. MacLeish stated that in today’s market, that is a tough sell.

Board member Flood asked if they are allowed to build a ranch building according to the approved PUD documents.

Mr. MacLeish answered it is not specified in the documents.

Board member Flood stated that this is why he wants an attorney’s opinion. They always advise developers to go to the HOA meetings and work with the residents.

Mr. MacLeish confirmed the location of the rear stake. The existing basement is the same grade as the resident that spoke. He stated that he doesn’t want to come into a place and have it get hostile. He has no problem having a meeting with the residents. He commented on his willingness to work with the Board and residents.
Chairman Durham explained the options for the petitioner.

Board member Walker commented that they had this same situation a couple of weeks ago. He suggested that Mr. MacLeish meet with a committee formed by the residents.

Mary Alexander, 93 Burniah, stated that she is in the process of selling her condominium. She had three cash offers and she has a two-story. She hopes they can reach a compromise.

Board member Flood stated that the Board wants everyone to be successful. They are trying to do the best they can for everyone involved.

Mr. Dan MacLeish, property owner, stated that the reason the setbacks are not done to code in the past is everything was done by hand. He explained his history in the construction business and his current business dealings in Rochester Hills. He stated that they will do their utmost to satisfy the neighbors.

Board member Flood stated that this is the items that the Planning Commission goes through establishing the PUD. He provided historical information regarding another development in the Township.

Chairman Durham stated that there variances on the table and they see the concerns expressed. They have also heard concerns expressed by the Board.

Mr. MacLeish responded that they would like to postpone to June 14, 2021. He will get in touch with the HOA and set up a day and time to meet. He will provide the plans and color renderings so everyone will get to see them.

Vice-Chair Cook stated that most of the discussion centered around Item H, units 47 and 48.

**Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.**

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

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

**G. AB-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidwell numbers 09-04-402-035 & 036**

The petitioner is seeking 3 variances from Zoning Ordinance #78

1. A 9-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21-ft from an adjacent condominium unit (south).
2. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from an adjacent condominium unit (north).
3. A .5-ft. rear yard setback variance from the required 30-ft. to construct unit 36, 29.5-ft. from the rear property line.

**Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.**
Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

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

H. **AB-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037 & 038**

The petitioner is seeking 4 variances from Zoning Ordinance #78

1. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from an adjacent condominium unit (south).
2. An 8.66-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21.34-ft from an adjacent condominium unit (north).
3. An 8.5-ft. rear yard setback variance from the required 30-ft. to construct unit 38, 21.5-ft. from the rear property line.
4. A .5-ft. rear yard setback variance from the required 30-ft. to construct unit 37, 29.5-ft from the rear property line.

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

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

I. **AB-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidwell numbers 09-04-402-041 & 042**

The petitioner is seeking 2 variances from Zoning Ordinance #78

1. A 2.5-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 27.5-ft from an adjacent condominium unit (south).
2. A 2.6-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 27.4-ft from an adjacent condominium unit (north).

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.
Roll call vote was as follows: Durham, yes; Brackon, yes; Cook, yes; Flood, yes; Walker, yes. Motion carried 5-0.

J. **AB-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidewell numbers 09-04-402-047 & 048**

The petitioner is seeking 4 variances from Zoning Ordinance #78

1. A 9.85-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20.15-ft from an adjacent condominium unit (south).
2. An 8.35-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 21.65-ft from an adjacent condominium unit (north).
3. A 10-ft. rear yard setback variance from the required 30-ft. to construct unit 48, 20-ft. from the rear property line.
4. A 17.5-ft. rear yard setback variance from the required 30-ft. to construct unit 47, 12.5-ft. from the rear property line.

Board member Flood, seconded by Chairman Durham, moved to postpone the following cases until June 14, 2021, case AB-2021-15, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19, MacLeish Building Inc., at the request of the applicant, in order to meet with the residents and answer the question regarding the Township Attorney and the PUD documents.

Mr. MacLeish asked if they can group the cases together to make it easier.

Director Girling replied that they have created individual cases so all of the case numbers need to be addressed. If the packet is all in one, the electronic delivery becomes cumbersome.

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

Director Girling asked if Board member Flood was asking her to seek the Township Attorney’s opinion on these cases.

Board member Flood moved, and Chairman Durham supported, to obtain the Township Attorney’s opinion in cases: AB-2021-15, AB-2021-16, AB-2021-16, AB-2021-17, AB-2021-18 and AB-2021-19 on the condominium documents, agricultural requirements, and if the lots were already plotted and it is suggested that he attend the June 14, 2021 meeting.

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

6. **PUBLIC COMMENT**
   None

7. **COMMUNICATIONS**

   A. Date Certain Memo
   Director Girling confirmed an upcoming training opportunity which will be forwarded to the Board members.

8. **COMMITTEE REPORTS**
   None

9. **MEMBERS’ COMMENTS**
   None Heard.
10. **ADJOURNMENT**
Moved by Board Member Flood, seconded by Chairman Durham to adjourn the meeting at 9:19 pm.

Respectfully submitted,

Erin A. Mattice
Recording Secretary