The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, May 22, 2023, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

**ZBA MEMBERS PRESENT:**
Dan Durham, Chairman  
Tony Cook, Vice-Chairman  
Mike Flood, BOT Rep to ZBA  
Don Walker, PC Rep to ZBA  
Diane Dunaskiss, Board member  
JoAnn VanTassel, Alternate Board member

**ZBA MEMBERS ABSENT:**
None

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

**OTHERS PRESENT:**
Tim Damien  
Rushit Bhima  
Erik Heiderer  
Jeff Guy  
Jacob Petiysier  
Wioletta Bilan  
Seit Selimi  
Chris Morgan  
Dan Mahoney  
Kerry Harper  
Mo Zaitouna

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

2. **ROLL CALL**

3. **MINUTES**

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

   Trustee Flood moved, seconded by Chairman Durham, to approve the 04-10-23 minutes as amended, changing page 6, paragraph 3, change “Ms” to “Mr”.

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

4. **AGENDA REVIEW AND APPROVAL**

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

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

5. **ZBA BUSINESS**
A. **AB-2023-05, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003** (Postponed from 4-10-2023 meeting – re-advertised)

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153
Section 7 – Permitted Ground and Wall Signs – Zoned IP
1. A variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34 sq. ft. (south elevation).

Mr. Moe Zaitouna introduced himself to the Board and summarized the variance request.

Board member VanTassel stated that the only new information was an aerial with the south face of the building circled in red. There was no additional justification given. The original justification was that they are on a corner lot and want to have the sign visible from two directions. She expected, after the last meeting, that the applicant would have taken a better look at what was requested and returned with additional information.

Mr. Zaitouna stated that he did not realize there was more information needed. His understanding was the only thing that was different is that they had previous put "east" and it should have been "south" side of the building.

Board member Dunaskiss asked about the sign on the west side of the building and if it was visible from any other direction.

Mr. Zaitouna replied that the existing sign is on the west side of the building and is not visible from any other direction, only going east on Dutton.

Trustee Flood commented on his building visit and how it was very hard to tell what business was in the building.

Chairman Durham asked where most of the traffic was traveling that would see the building.

Mr. Zaitouna replied both directions on Dutton Road.

Chairman Durham agreed with Trustee Flood that the existing sign cannot be seen from M-24.

Trustee Flood stated that if the sign request was approved, he suggested that the temporary banners be removed.

Mr. Zaitouna agreed.

Mr. Goodloe, Building Official, confirmed that the temporary banners are against the ordinance.

Chairman Durham asked for public comment.

An unidentified speaker stated that he works in the area and this building has plenty of signage. People looking for this business will find it easily. This person put a business in this area knowing what the sign restrictions are and now wants to change it. The Sign Ordinance exists for a reason. He is opposed to the variance request and explained.

Chairman Durham confirmed that the temporary banners would come down if the sign request is approved.

The unidentified speaker stated that all sides of the building are covered and added that he was also opposed to the lighting at this business location. There is no public benefit for issuing the variance.
Board member Dunaskiss asked if the lighting was going to be changed.

Mr. Zaitouna added that once the second sign was put up, the business owner would remove the Christmas lights.

Mr. Goodloe, Building Official, confirmed that no information had been filed by the applicant regarding the lighting nor the temporary banners.

Trustee Flood stated that this Board doesn’t consider public benefit; they are considering practical difficulties only. There have been numerous commercial requests for more than one wall sign from this Board in the past.

Board member VanTassel moved, supported by Board Member Walker, that in the matter of ZBA case AB-2023-05, Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003 that the petitioner’s request for 1 variance from Sign Ordinance #153 Section 7 – Permitted Ground and Wall Signs – Zoned IP that a variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (south elevation) be denied for plans date stamped, March 9, 2023, and supplemental information date stamped April 11, 2023, because the petitioner did not demonstrate that the following standards for variance have been met in the case that set forth facts which show that in this case:

1. The petitioner does not show practical difficulty due to the fact that the building on which the sign is proposed to be located is not unique to the property and is not related to conditions in the area of the property. There are numerous other buildings at this vicinity that sit on a corner and do not have two signs.

2. The following are not exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other buildings of a commercial nature in this same district or zone: this area for the most part abides by the ordinance.

3. The variance is not necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: based on information that has been received from the Township there are alternatives available to this petitioner that would allow for the property to be properly identified for traffic that is westbound on Dutton Road without the need for variances of any type and would be more conducive to the area and would be less of a hindrance to traffic.

4. The granting of the variance or modification will 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 if you look at the original aerial photos that were submitted with the application or with the subsequent you will note that as Dutton Road proceeds west to M-24, it jogs at this building slightly to the south which takes the driver’s eyes away from the building so a sign on the south has the potential to create a traffic accident. Any wall sign on the south façade of the existing building meets the conditions and further, there are alternatives available to provide identification to this building allowable in the existing sign ordinance that would not create a traffic hazard or any other impediment to traffic and would provide the identification of the business to anyone driving west on Dutton Road.

Roll call vote was as follows: VanTassel, yes; Walker, yes; Flood, no; Durham, no; Dunaskiss, no. Motion fails.
Trustee Flood moved, supported by Chairman Durham, that in the matter of ZBA Case AB-2023-05, readvertisement of Southfield Sign & Lighting (for Joyology), 4898 Bald Mountain Rd., 09-35-477-003 in request for 1 variance from Sign Ordinance #153 Section 7 – Permitted Ground and Wall Signs – Zoned IP for a variance for 1 wall sign above the allowed 1 wall sign for a total of 2 wall signs totaling 133.34-sq. ft. (south elevation) be granted for plan date stamped April 11, 2023 because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner does show the following practical difficulties: due to the unique characteristics of the property, this sits inside an industrial park at the extreme southeast corner at the corner of Bald Mountain and Dutton 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: this is in the southeast corner of the industrial park. There is no signage on the front of the building facing Dutton Road which is a 50 miles per hour road. If you are traveling west, you are coming down a hill and looking from M-24, it is approximately ½ to ¾’s of a mile away.

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: there are several buildings in the vicinity that have more than one sign on their building.

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. This is a commercial zone, not near to residential property and across the street is commercial property of Auburn Hills.

5. The granting of this variance would not impair an adequate supply of light or air to the adjacent properties, due to being in the industrial park. It would not unusually increase congestion on the public streets and proper signage on any building allows it to eliminate confusion in the public streets. There is also not going to be an increase of fire, or endanger of the public safety, and the Fire Marshall has provided a statement in which he has no concerns regarding this variance. The granting of this variance will not 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.

Petitioner agrees that when the second sign is constructed, all temporary banners on the site and the red and green lights will be removed.

Board member VanTassel explained why the petitioner should install a monument sign instead of obtaining a variance.

Roll call vote was as follows: Dunaskiss, yes; VanTassel, no; Walker, no; Flood, yes; Durham, yes. Motion passes 3-2.

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

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned SF (Postponed from 4-10-2023 meeting)

Article XXVII, Section 27.02 (A)(8)
1. A 2,185.16-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.
2. A 1,685.16-sq. ft. variance above the allowed Total Maximum Floor Area of All Accessory Buildings of 1,500-sq. ft. for existing sheds totaling 916.91-sq. ft, an existing 448-sq. ft. gazebo, an existing 1,057-sq. ft. barn, and an existing 763.25-sq. ft. carport.

Ms. Wioletta Bilan introduced herself to the Board.

Chairman Durham asked what is different about this request as compared to the last appearance before the Board.

Ms. Bilan explained how she reduced the variance.

Chairman Durham stated that the application said they would remove a barn and a carport but the request is for a barn and a carport, so is asking for an explanation.

Ms. Bilan confirmed that all have been removed on the list; they removed 2,360 square feet of accessory buildings. They removed all sheds, the carport and are in the process of removing the barn.

Trustee Flood stated that the way he understood it is that they are keeping the gazebo, the log cabin and are removing the chicken coop, shed and barn.

Chairman Durham stated that it appears that what they are being asked to vote on is the big number for the buildings currently on the site.

Board member Walker stated that it looks like the same request that was presented the first time. He thought the reason for the postponement is to give the petitioner time to regroup and modify the request but it appears to be the same as it was.

Board member VanTassel commented on the buildings that appear to be kept and demolished and commented on the amount of square footage required.

Building Official Goodloe stated that the petitioner has to determine if she wants to move forward with the variance requested or not.

Ms. Bilan commented that she sent an email to Lynn Harrison letting her know that they took down the sheds and are in the process of taking down the barn and she read the email. She is not asking for more square footage, she is asking for status quo. There are no sheds or carport and the historic barn is halfway demolished. The only thing left is the log cabin and the gazebo. Now, they need a pole barn to store items on their property.

Chairman Durham stated that the same variance that she requested before has been presented to the Board again.

Ms. Bilan replied she is sorry to hear that.

Chairman Durham stated that he does not like to make decisions here; he likes solid numbers. He doesn't know that the Board can do anything that she wants based on the information presented.

Board member Dunaskiss stated that the petitioner has taken down the barn, carport and shed structures and the only structures left are the gazebo and the cabin and those keep the petitioner within what is allowed in external buildings. However, the petitioner wants to add a building and asked her what she wants to add.

Ms. Bilan replied they want to maintain the 2,360 square feet that they had for the past two decades.

Board member Dunaskiss stated that Ms. Bilan needs to bring a new application because the request is now different. This should include the dimensions of the building that she wants to add to the property.
Ms. Bilan replied she does not want to go through the process because she doesn’t know what she is working with. She wants the original 2,360 square feet to be approved that they have had.

Chairman Durham stated that the information given to the Board is wrong and they cannot vote on it.

Ms. Bilan replied she wants 2,360 square feet.

Chairman Durham stated that the petitioner wants to construct a new building.

Building Official Goodloe commented on the history of the accessory buildings on the property. The amount of 2,360 square feet is higher than was advertised so it would have to be readvertised. He saw today that they are disassembling the barn. A good plan is needed in order to achieve the 2,360 square feet. This variance is for 2,185 square feet above the allowed amount for detached and then 1,685 square feet above for all accessory buildings.

Chairman Durham asked for public comment.

Chris Broquet, neighbor, stated that everything has been removed except for the cabin and the gazebo and the petitioner wants to get a garage. The petitioner is trying to see what amount of square footage is acceptable so she knows how big the garage can be.

Building Official Goodloe summarized the square footage requested based on this information.

Ms. Broquet reiterated that the petitioner just wants a garage. If the Board can tell the petitioner how to proceed next.

No further comment was heard.

Trustee Flood stated that the Board does not make recommendations to the petitioner as to what they can build. Is there an approval or denial of the original variances or because they have gone below the required variance, is there a withdrawal?

Board member VanTassel asked about a document included in the Board packet. She stated it would be helpful if the person who prepared the document had put their name on it. They have an open application to grant variances which was held over for the applicant to decide what they wanted to keep and what they were willing to demolish. The petitioner wants to amend their application for variance for two new structures. She outlined the options for the Board for action tonight. It would have been helpful if the ZBA got a copy of what was advertised in the packet.

Trustee Flood commented that there was no changes so it wasn’t re-advertised.

Building Official Goodloe stated that the Board has lessened variances in the past. But, the petitioner has not provided any details regarding what she wants to keep and the amount that is coming off of the allowable to know exactly how much she will have left to use in a garage. The petitioner should go back to zoning and determine exactly what she wants.

Chairman Durham asked if the new garage would necessitate the petitioner coming back before the Board.

Building Official Goodloe answered possibly if it was over 300 square feet.

Board member Dunaskiss stated that any variance granted stays with the property. She asked if the buildings are torn down that required the variances, does the variance go away because it is tied to the buildings.

Trustee Flood explained that it does go with the land.
Ms. Bilan commented on the Board’s possible action.

Chairman Durham suggested that the petitioner return to the Zoning Department and do the figuring of amounts across the desk with the staff and then return to the Board with hard numbers of exactly what is requested.

Trustee Flood stated that it should be a new application. If they postpone, they would be looking at the same application again.

Ms. Bilan stated that she has no problem with applying again but she does not want to pay the fee again.

Board member Walker stated that he would not want to vote on a variance that he does not know the dimensions of. He suggested that the petitioner come to the Board with what she wants to build.

Ms. Bilan stated that Mr. Goodloe understands what she wants to do.

Board member Walker stated that Mr. Goodloe doesn’t have the authority to grant a variance and he will not grant a variance without knowing what is going to be built.

Ms. Broquet stated that the petitioner wants to build a garage made up of 1,000 square feet. The log cabin plus the gazebo should be added to that.

Board member VanTassel stated that she understands that the petitioner is proposing the construction of a garage that is 1,000 square feet. She also knows that when it is dimensioned out, it could be slightly different. She stated to grant a 1,000 square foot variance at this point. She stated that the options are to take the original request back to the planning department to discuss options and then readvertise with changed dimensions. The other option is to say that she is going to start all over from scratch.

Building Official Goodloe recommended that the petitioner asks to postpone and then the petitioner should come to the office and staff will help her with an updated request to the Board.

Ms. Bilan asked to postpone.

Trustee Flood stated that they already asked for postponement on April 10, 2023. He does not feel comfortable asking for it again.

Board member Dunaskiss stated that there was a misunderstanding on what should have been documented or written. She supports a postponement for this petitioner.

Board member VanTassel confirmed the dates available for postponement.

Ms. Bilan stated that she would like to ask for postponement to come back with a clear picture of what she wants.

Chairman Durham confirmed that he would support postponement for this case and he explained. When the petitioner comes back, he urged her to come back with a clear picture of what is proposed.

Board member VanTassel moved, supported by Board member Dunaskiss, that in the Case of ZBA AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002, at the petitioner’s request, to be postponed until June 26, 2023.

Roll call vote was as follows: Flood, no; Walker, yes; VanTassel, yes; Dunaskiss, yes; Durham, yes. Motion passes 4-1.

Board member VanTassel left the Board table.
Vice-chairman Cook joined the Board.

C. AB-2023-09, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.)

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned R-3 Article VI, Section 6.04
  1. A 20-ft. front yard setback variance from the required 30-ft. to build a house 10-ft. from the property line along Pine Ave.

Mr. Seit Selimi introduced himself to the Board.

Chairman Durham asked for further clarification of the variance request.

Mr. Selimi stated that the water is on both sides of the property and it doesn’t square off; it comes up on both sides. According to ordinance standards, he needs to be 50 feet away from the water’s edge on both sides for the septic field and this is why he needs the variance.

Chairman Durham stated that the variance is so the petitioner can install a septic field on his property.

Mr. Selimi concurred.

Trustee Flood asked about the road right-of-way.

Mr. Selimi pointed out the right-of-way lines on the drawing.

Trustee Flood stated that he is concerned about sight line.

Chairman Durham asked if the property catches water runoff in the spring.

Mr. Selimi answered no.

Chairman Durham asked for public comment.

Mr. Elmer Claycom introduced himself to the Board. He asked where the driveway was going to be on Pine Avenue. The lot line is within 5 feet of the road right now and he explained.

Building Official Goodloe stated that the road is probably encroached onto this property.

Mr. Claycom stated that the road marker is within five feet of the road. There is a lot of traffic there and he would like to know where the driveway is going to go.

No further public comment was heard.

Trustee Flood stated that Walnut Road is a County Road and he knows that Pine Tree is for sure.

Mr. Selmi stated that Oakland County comes through and grades the road.

Board members discussed the ownership of surrounding roads to the subject property.

Mr. Selmi stated that the driveway will not come off of Pine Avenue and he pointed out the proposed driveway location on the displayed drawing.
Vice-chairman Cook asked the purpose of the cone that was on the property.

Mr. Selmi answered that he put the cone on a pipe that is there.

Vice-chairman Cook asked if he had a proposed design of the home.

Mr. Selmi replied that he did not get a chance to provide the updated plot plan.

Vice-chairman Cook asked if the neighbor's deck was encroaching.

Mr. Selmi answered no. He did not go look down the line, but he would assume that it is not. It is his boat that is stored on the property.

Vice-chairman Cook stated that he doesn't like not seeing the design of the home.

Building Official Goodloe asked about the positioning of the house.

Mr. Selmi stated that it would be in the front so he would not have to worry about the wetlands. He explained the area that the house would be located in.

Trustee Flood commented on the angling of the property. Another practical difficulty is two front setbacks because there are two fronts. He urged the petitioner to position the house far enough back to not impede the line of sight.

Mr. Selmi stated that the house would be located in the same line as his neighbor's house.

Trustee Flood agreed with Vice-chairman Cook regarding the house design.

Vice-chairman Cook asked if the petitioner took the placement of the road into account when looking at the placement of the house.

Mr. Selmi answered that he will probably have to get another variance.

Chairman Durham commented that the petitioner will not be able to move forward even if he is successful tonight.

Mr. Selmi stated that he would need a variance for the fronting on Walnut; he assumed it was Pine Avenue. He understands that it is his mistake.

Board member Walker commented that he doesn't want the petitioner to come back for a variance on the variance. He suggested that it might be better if the petitioner does it all at one time.

Trustee Flood stated that this would be a variance increase.

Board members discussed the options for this petitioner.

Mr. Selmi confirmed that he would like to withdraw the case and reapply.

Board member Dunaskiss moved, supported by Trustee Flood supported, that in the matter of ZBA Case AB-2023-09, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.) to withdraw the request per the petitioner’s request.

Roll call vote was as follows: Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham, yes. Motion passes 5-0.
D.  **AB-2023-10, XL Fireworks Temporary Use Permit for an Open Air Business, 664, 666, 668, 670, 674, 678, 684, 686, 688, 690, 694, 698, 700, 702 & 704 S. Lapeer Rd., 09-11-428-011**

Per Zoning Ordinance #78, Article XXX, Section 30.11(F)(1)(b); the petitioner is requesting a Temporary Use Permit for Open Air Business, to sell consumer fireworks from a tent June 20, 2023 – July 5, 2023.

Mr. Jeff Guy and Tim Damico introduced themselves to the Board and summarized the variance request.

Trustee Flood commented on the conditions of the approval including compliance with Fire Marshall and the Township having up to date contact information.

Chairman Durham asked if there was any interaction last year between the Township and these individuals.

Building Official Goodloe replied no.

Mr. Jeff Guy replied that they used the battery packs last year and did not use the generator.

Trustee Flood confirmed the dates and hours of operation.

Chairman Durham asked for public comment.

No public comment was heard.

**Trustee Flood moved, and Vice-chairman Cook supported, in Case AB-2023-10, XL Fireworks Temporary Use Permit for an Open Air Business, 664, 666, 668, 670, 674, 678, 684, 686, 688, 690, 694, 698, 700, 702 & 704 S. Lapeer Rd., 09-11-428-011 for a variance Per Zoning Ordinance #78, Article XXX, Section 30.11(F)(1)(b); that a Temporary Use Permit for Open Air Business, to sell consumer fireworks from a tent June 20, 2023 – July 5, 2023 be granted. The applicant would be using the property for a permitted purpose and have demonstrated that they will be complying with the required conditions for an open air business. The conditions of approval are as follows:**

1. There will be no other open air business for fireworks within one mile

2. The applicant will provide to the Building Department phone numbers of people that can be reached any time of day or night

3. The hours of operation will be 10:00 am to 10:00 pm June 20, 2023 through July 5, 2023

4. Articles will be stored in a storage pod or something similar after hours

5. The applicant will provide the Township with a current copy of the liability insurance listing Orion Township as an additional insured

6. The applicant will provide the Township with a copy of their Michigan Department of Licensing and Regulatory Affairs Consumer Fireworks License

7. Fire Department approval will be required prior to opening

8. The applicant must provide a $1,000.00 cash bond for a reinspection of the site once the operation has been removed

9. Approval is for the plan date stamped received March 29, 2023
Roll call vote was as follows: Dunaskiss, yes; Cook, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 5-0.

E. AB-2023-11, Chris Morgan for 406 Shorewood Dt., 09-03-405-010

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 8 variances from Zoning Ordinance #78 – Zoned R-3

Article VI, Section 6.04
1. A 16.1-ft. front yard setback variance from the required 30-ft. for the proposed porch to be 13.9-ft. from the front property line (Shorewood Ct.).
2. A 12-ft. front yard setback variance from the required 30-ft. for the proposed attached garage to be 18-ft. from the front property line (Shorewood Ct.).
3. A 14-ft. rear yard setback variance from the required 35-ft. for a proposed porch to be 21-ft. from the rear property line (lake side).
4. A 29% lot coverage variance above the allowed 25% for a total lot coverage of 54%.
   Article XXVII, Section 27.01(C)(1)(b)
5. A .1-ft. side yard setback variance from the required 7-ft. for a proposed porch to be 6.9-ft. from the side property line to the south.

Article XXVII, Section 27.03(C)(3)(b)(ii) & (iii)
6. A 10.7-ft. rear yard setback variance from the required 20-ft. for a deck to be 9.3-ft. from the rear property line (lake side).
7. A 10.7-ft. water's edge setback variance from the required 20-ft. for a deck to be 9.3-ft. from the water's edge (lake side).

Article XXVII, Section 27.17(B)
8. A 4-ft. wetland setback variance from the required 25-ft. for a proposed porch to be 21-ft. from a wetland (the lake).

Mr. Chris Morgan introduced himself as representing Mr. and Mrs. Hudson, property owners of 406 Shorewood Drive and he summarized the variances requested to install a covered porch. Overall, although they are asking for eight variances, they are reducing existing nonconformity by eliminating structures. They are only increasing the lot coverage by a little over 2% and will be further away from the neighbor's house to the south because they will be further away from the property line. They are also not blocking the neighbor's lake view.

Chairman Durham asked who put up the nonconforming decks and other structures that the petitioner is removing.

Mr. Morgan replied the previous owners of the property.

Board member Dunaskiss asked if the total lot coverage at the end will be 54%.

Mr. Morgan replied yes; it is 52% now.

Vice-chairman Cook asked about the removal of the existing decks.

Mr. Morgan replied that two of the decks will be removed completely and the third deck will be reduced to create a greenspace. The elevated deck will be removed completely. The deck that has the doors that exit onto it will be made smaller. The proposed covered porch will be part of the addition behind the garage.

Chairman Durham asked how he would answer the questions regarding practical difficulty.

Mr. Morgan answered that the practical difficulty is where the house sits currently and where the structures sit currently, none of it complies with the standards today. The petitioner did not create these
nonconformities, they were preexisting. There were some variances granted in the 1980’s but because there is nothing the homeowner could do to the property that would not require a variance. In comparison to other properties in the area, he does not believe that any comply with the front yard setback and many do not comply with the rear yard or lot coverage standards. This is a unique situation in this area.

Chairman Durham stated that the Board cannot be held accountable with what has happened in the past.

Mr. Morgan replied that they were trying to be sensitive to current standards by decreasing setbacks where they could and decreasing lot coverage by eliminating structures. They are adding a master suite, two porches and a garage, they are only netting an additional 103 square feet of lot coverage. The goal was to net zero on the lot coverage. The bedrooms and addition are not excessive. They are proposing a 1 and ½ car garage and reduced the storage area.

Chairman Durham asked what the lot dimension was.

Mr. Morgan replied it is 4,460 square feet. It is 60 across the front and 85 on the south side and 77/78 on the north side. It is a small lot.

Trustee Flood stated that it is irregular shaped.

Chairman Durham asked for public comment.

No public comment was heard.

Vice-chairman Cook asked where the bedroom is proposed to go.

Mr. Morgan pointed out the proposed addition area, proposed garage and proposed covered porch on the plan. He pointed out a covered walkway on the plan.

Vice-chairman Cook asked for clarification.

Mr. Morgan provided clarification on the proposed addition.

Vice-chairman Cook asked how many trees are being lost.

Mr. Morgan replied one.

Board member Walker stated that what bothers him is the number of variances, the size of the property and the practical difficulty that the homeowner has now that forces him to do what he is doing. These variances aren’t large but there are a lot.

Mr. Morgan stated that there is precedence in that area and he explained. The only thing that they are increasing is the lot coverage.

Vice-chairman Cook asked what the practical difficulty is.

Mr. Morgan replied the preexisting nonconforming structures. It is a small lot and irregularly shaped lot. He doesn’t know if this lot is smaller than others in the area.

Mrs. Hudson, property owner, stated that the practical difficulty is the fact that it is a two-bedroom home and they have three children and need three bedrooms. They tried to add a bedroom with the least amount of disruption.

Mr. Morgan stated that this structure could not support a second level structure and he explained.

Chairman Durham read the last two lines of the standards outlining practical difficulty.
Mr. Morgan explained why the variances requested were not self-created. There is nothing that they can do to this property that would not require a variance.

Chairman Durham explained the function of the Board.

Chairman Durham asked for public comment.

Marlow Hudson, daughter of the property owner, stated that what they are trying to do is important. This is not due to economic or personal difficulty. The lot itself creates the hardship. The lot is currently not used to its possible beauty. The lot and the house could look a lot better, and its own appeal would make the neighborhood look better. There have been no negative comments from the neighbors.

Mr. Morgan stated that having fewer bedrooms does limit their ability to use the property the way they want to.

Building Official Goodloe asked the petitioner to go through each variance request and say whether it is increasing or decreasing.

Mr. Morgan answered that #1 is stagnant, #2 is decreasing, #5 is decreasing, #6 and #7 are the same although the deck is smaller and #8 is new. The lot coverage is the biggest ask.

Building Official Goodloe asked about drainage plans.

Mr. Morgan stated that the lot drains front to back. They are creating more greenspace so they will have more absorption for water runoff.

Building Official Goodloe commented on the case.

Mr. Morgan stated that there is a lot of concrete there that is not in the calculation.

Trustee Flood stated that there are eight variances but some of them are very small. These lake properties are unique and there are standards to uphold as distance from water and wetlands that make this difficult.

Chairman Durham commented that the Fire Marshall has no issues with the proposed plan.

Board member Dunaskiss stated that there are a lot of variances but she feels that they have done the best that they can with what they had to work with. A two-bedroom home today is pretty unique, three bedrooms are needed. They are repurposing the property in a manner that is beneficial and are reducing the decking and adding greenspace.

Board member Walker moved, supported by Trustee Flood, that in the mate of ZBZ Case #AB-2023-11, Chris Morgan for 406 Shorewood Ct., 09-03-405-010 in which the petitioner is seeking 8 variances from Zoning Ordinance #78 – Zoned R-3 Article VI, Section 6.04 including a 16.1-ft. front yard setback variance from the required 30-ft. for the proposed porch to be 13.9-ft. from the front property line (Shorewood Ct.), a 12-ft. front yard setback variance from the required 30-ft. for the proposed attached garage to be 18-ft. from the front property line (Shorewood Ct.), a 14-ft. rear yard setback variance from the required 35-ft. for a proposed porch to be 21-ft. from the rear property line (lake side), and a 29% lot coverage variance above the allowed 25% for a total lot coverage of 54%; Article XXVII, Section 27.01(C)(1)(b) for a .1-ft. side yard setback variance from the required 7-ft. for a proposed porch to be 6.9-ft. from the side property line to the south; Article XXVII, Section 27.03(C)(3)(b)(ii) & (iii) for a 10.7-ft. rear yard setback variance from the required 20-ft. for a deck to be 9.3-ft. from the rear property line (lake side) and a 10.7-ft. water’s edge setback variance from the required 20-ft. for a deck to be 9.3-ft. from the water’s edge (lake side); Article XXVII, Section 27.17(B) for a 4-ft. wetland setback variance from the required 25-ft. for a proposed porch to be 21-ft. from a wetland (the lake) be granted for plans date stamped April 12, 2023 because the petitioner did
demonstrate that the following standards for variances have been met in this case and that they set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty: much of this is due to the unique characteristics of this particular property and is not related to all general conditions in the area of the 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: at least three of these variances are reducing the nonconformity of existing variances on the property. The petitioner has indicated that he is going to enlarge the greenspace and make it more earth-friendly.

3. The variances are necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the following facts: this is currently a two-bedroom home and although it was a two-bedroom home when they purchased it, they would still prefer to have a third bedroom and this is a practical difficulty.

4. The granting of the variances or modifications 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.

5. The granting of these variances would not impair an adequate supply of light or air to the adjacent properties, they will not unusually increase congestion on the public streets. There is also not going to be an increase of fire, in fact, the Fire Marshall has indicated that he has no issue with the variances requested. The granting of the variances will not endanger the public safety, and are 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: Walker, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Durham, yes. Motion passes 5-0.

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned SC

1. A 9.63-ft. rear yard setback from the required 35-ft. for a proposed sunroom to be 25.37-ft. from the rear property line.

Mr. Erik Heiderer, architect, introduced himself as representing the property owner and summarized the variance request for a three-story addition on the back of the home to house the owner’s elderly parents. The house to the left and to the right are angled significantly so it would not affect the lake view. He pointed out two other variances that were successful on the same street for covered porches. If the property was more of a rectangular shape, it would be more conducive to what they want to do.

Trustee Flood stated that bringing in the elderly parents to live with them is common. It would be good for their health to be able to get out in the sunroom for fresh air. He doesn’t know if this is a hardship or not. If they are handicapped, this helps too.

Mr. Heiderer replied that both parents are in their mid 80’s.

Trustee Flood agreed with the petitioner as to the angling of the next door properties.
Mr. Heiderer stated that they do have a retention pond in the back.

Trustee Flood stated that he noticed a lot of these properties have French doors that go nowhere.

Mr. Heiderer stated that they recessed the third floor in the back and he explained the proposed design of the sunroom.

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

No public comment was heard.

Vice-chairman Cook moved, supported by Board member Dunaskiss, that in the matter of ZBA Case #AB-2023-122, Erik Heiderer, 1382 Goldeneye Lane, 09-25-401-024 requesting 1 variance from Zoning Ordinance #78 – Zoned SC for a 9.63-ft. rear yard setback from the required 35-ft. for a proposed sunroom to be 25.37-ft. from the rear property line, be granted for plans date stamped April 12, 2023 because the petitioner does demonstrate that the following standards for variances have been met in this case and that they set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty: due to the unique characteristics of this particular piece of property and its trapezoidal shape, it presents some things that are unique to this subdivision, not this particular street.

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 trapezoidal shaped and additionally, it has a retention pond that is behind it.

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: this family is taking in their parents and in order to preserve and enjoy that and make sure that their parents can get around the property, this addition is necessary to do this in a safe manner. The property does slope towards the retention pond and having them in this enclosed space with a deck will be a lot safer for them.

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 areas or districts in which the property is located.

5. The granting of this variance would not impair an adequate supply of sunlight or air to the adjacent properties, it would not unusually increase congestion on the public streets. There is also not going to be an increase of fire, as the Fire Marshall submitted a letter citing no concerns. This granting of the variance is not going to reasonably diminish or impair established property values within the surrounding area.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

Chairman Durham commented on the strength of the Board.
Trustee Flood updated the Board on the following events: Saturday, June 3, 2023 is a hazardous waste event; free shredding day at the Orion Center and on June 10, 2023, Waste Management is holding a free disposal day.

10. ADJOURNMENT

Moved by Board member Dunaskiss, seconded by Chairman Durham, to adjourn the meeting at 9:33 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary