The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 12, 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
- Mike Flood, BOT Rep to ZBA
- Don Walker, PC Rep to ZBA
- Diane Dunaskiss, Board member
- Tony Kerby, Alternate Board member

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

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

**OTHERS PRESENT:**
- Cosimo Lombardo
- David Hamilton
- Barkley Pierce

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 to withdraw the motion to approve the April 10, 2023 ZBA Regular Meeting Minutes due to the fact that they had already been approved, Chairman Durham withdrew his support.

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

   B. **04-24-23, ZBA Regular Meeting Minutes**

   Trustee Flood moved, seconded by Board member Dunaskiss, to approve the 04-24-23 minutes as amended, changing “Mr.” to “Ms.”.

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

   C. **05-22-23, ZBA Regular Meeting Minutes**

   Trustee Flood moved, seconded by Board member Kerby, to approve the 05-22-23 minutes as presented.
Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; Kerby, yes. Motion passes 5-0.

4. **AGENDA REVIEW AND APPROVAL.**

Trustee Flood moved, seconded by Chairman Durham, to approve the agenda as presented.

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

5. **ZBA BUSINESS**

   A. **AB-2023-13, Mike and Andrea Carr, 2438 Knotty Willow Ln., 09-21-176-098.**

   Chairman Durham read the petitioner’s request as follows:

   The Applicant is seeking 1 variance from Zoning Ordinance #78
   Article XXVII, Section 27.17(B)


   Mr. Cosimo Lombardo introduced himself as representing the petitioner and he summarized the variance request. He explained that the variance is necessary because of the unique qualities of the property including a water and sewer easement at the backside of the lot that about doubles what the rear setback would normally be and the 25-foot wetland setback. He described the displayed aerial for the Board members. Mr. Lombardo explained the history of the water and sewer easement and its creation back when the wetland setback requirement did not exist. This homesite is unique because the combination of both items that creates a depth restrictive nature of the homesite. He explained the reason for having the wetland setback. He described the natural barrier that they are proposing along this wetland setback area with a driveway curb and retaining wall to match the grade. They are not meeting the strict dimensional requirements of the ordinance but are observing the natural barrier area and thus meeting the intent of the ordinance.

   Chairman Durham asked if the petitioner is going to be able to move the garage that far over and keep it on dry ground.

   Mr. Lombardo answered yes.

   Chairman Durham asked what the wetlands area looks like after an inch of rain, like today.

   Mr. Lombardo answered that it is still not close to the corner.

   Trustee Flood commented on the effect of lack of rain. Every other criteria of the ordinance is met with this proposed plan and the only portion is the corner that they are requesting. He sees the practical difficulty.

   Chairman Durham asked if there were water and sewer lines running through there now.

   Mr. Lombardo replied yes.

   Chairman Durham stated that this lot will be difficult to develop and having it staked out helped.

   Board member Walker asked Building Official Goodloe for his thoughts.
Building Official Goodloe offered feedback.

Chairman Durham commented that the Fire Marshall has looked over the plan and has no issues.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, seconded by Board Member Kerby, that in the Case AB-2023-13, Mike and Andrea Carr, 2438 Knotty Willow Ln., 09-21-176-098 that the petitioner’s request for 1 variance from Zoning Ordinance #78 Article XXVII, Section 27.17(B) for a 10.38-ft. wetland setback variance from the required 25-ft. for an attached garage to be 14.62-ft. from a wetland be granted for plans date stamped May 5, 2023 and the applicant addressed the Fire Marshall’s question, access for applicant's home on Knotty Willow Lane is via a driveway because the petitioner does demonstrate that the follow 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 uniqueness of the lake lot because of the easement with the water and sewer running through part of the property (which was put in in the 1980’s) and then subsequently the wetlands ordinance was adopted 25 years later determining the setback in the rear.

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 previously stated, the easements and the ordinance and determining that this property is buildable.

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: currently there are three other homes built in this same vicinity and the lake lots are not exactly rectangular in shape.

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. The improvement on this property will increase the property values in this location.

5. Granting this variance would not impair an adequate supply of sunlight or air to adjacent properties. This variance will not unusually increase congestion on public streets, it is on private land and a private road. The petitioner does meet all other setback requirements to place a home on this property. 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, it will in fact increase the property value. The variance will not in any other respect impair the public health, safety, comfort, morals or welfare of the residents of Orion Township.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

Board members commented on an upcoming Food Truck Rally.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS.
Board member Walker commented on the Library’s recent book sale and Library’s recent reading event.

10. ADJOURNMENT

Moved by Board member Kerby, seconded by Chairman Durham, to adjourn the meeting at 7:18 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary