The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 26, 2023, at 7:01 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

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

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

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

**OTHERS PRESENT:**
- Scott Kehrer
- Kristen Kehrer
- Ken Parker
- Carrie Parker
- Violet Bilan
- Ned Bilan
- Seit Selimi

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

2. **ROLL CALL**

3. **MINUTES**

   A. 06-12-23, ZBA Regular Meeting Minutes
   Trustee Flood moved, seconded by Chairman Durham, to approve the 06-12-23 minutes as presented.
   Motion Carried (5-0)

4. **AGENDA REVIEW AND APPROVAL.**
   Trustee Flood moved, seconded by Board member Dunaskiss, to approve the agenda as presented.
   Motion Carried (5-0)

5. **ZBA BUSINESS**
   A. **AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002**
Chairman Durham read the petitioner’s request as follows:

The applicant is seeking 2 variances from Zoning Ordinance #78 – Zoned SF (Postponed from 4-10-2023 & 5-22-2023 meetings)

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. Violet Bilan introduced herself.

Chairman Durham asked if she had come to an understanding with the Planning and Zoning Office.

Ms. Bilan replied yes.

Chairman Durham asked if the proposed plan was different than what is shown on the agenda.

Ms. Bilan answered yes.

Chairman Durham read the following revised request that is proposed by Ms. Bilan.

1. The applicant is seeing a 1,352.04 square foot variance above the allowed Maximum Floor Area of 714.04 square feet to build a new 650 square foot storage shed and a new 988 square foot garage for a total of 2,352.04 square feet of attached accessory buildings.

2. The applicant is seeking an 852.04 square foot variance above the allowed maximum floor area of all accessory buildings of 1,500 square feet for existing accessory buildings of 714.04 square feet and to build a 650 square foot storage shed and a new 988 square foot garage for a total of 2,352.04 square feet of all accessory buildings per plans date stamped June 1, 2023.

Ms. Bilan agreed with the above request.

Chairman Durham stated that there is no mention of buildings that were in previous requests. He asked Ms. Bilan what she has physically removed off of the property.

Ms. Bilan replied that they removed a barn and a barn loft totaling 1,057 square feet. They also removed the garage that collapsed in 1991 in the amount of 750 square feet. They also removed the gazebo, a three-car shed which was about 720 square feet. They removed Shed A, Shed B and Shed C. They basically removed everything but the gazebo and the log cabin.

Chairman Durham agreed that this is what he observed when he visited the property.

Trustee Flood stated that the applicant removed a total of 2,471.12 square feet of accessory buildings. They are keeping the gazebo and the log cabin which is 714.04 square feet. They decreased their request by 40% and also decreased the maximum floor area of all accessory buildings by 833.12 square feet which is a 50% reduction.

Chairman Durham asked if there was public comment for this case.

No public comment was heard.
Chairman Durham stated that the buildings were all down. He observed a dumpster on the property, and he asked if it was still there.

Ms. Bilan replied yes. They still have a little bit of clean up.

Trustee Flood asked about the practical difficulty.

Ms. Bilan replied that their house was situated between a septic tank, and they have to build a storage building and a garage. They are going to put it where the old barn was, and the old garage was. She stated that they are not attaching the building because the house is situated between a septic tank on the west side and a water well on the east side so they cannot attach it. On the north side, they are very close to the road so they cannot put the garage there. On the south end, there is a walk out basement and the floor is less than 8 feet high so they will never be able to build a regular height ceiling garage.

Chairman Durham asked what about her situation requires all of this storage space.

Ms. Bilan replied they are not asking for anything more than they had when they purchased the house. They are not seeking additional square footage beyond what was initially present in 1999. They want to return the functionality of their property that they had by observing the natural restraints. The three-car garage is needed because they have Hummer vehicles, and they want to be able to store them protected from the elements. They also have equipment that they use for gardening. Instead of extending the house, they would like to use the shed. They had four structures when they moved in, and they are proposing four structures and the square footage will be equal.

Board Member VanTassel commented that the man of the household repairs bicycles and has a truck and a trailer that he uses for this activity. The extra storage space would be used to keep the truck and trailer inside to protect them.

Ms. Bilan stated that they have two storage units in Orion Township, and she explained how these are used. There is no intent to do any repairs in the house and she explained the storage for the bicycles. They are not going to use the proposed additional storage for their business. The garage will be used to house their vehicles and she explained what would be stored in the shed.

Board Member Walker asked if everything that she tore down was there when she bought the property.

Ms. Bilan answered yes. The problem with the Township is that they put up more and they have since removed it.

Board member Walker stated that this is one of the most difficult cases and he explained why.

Board member Walker moved, seconded by Board Member Dunaskiss supported, in the matter of ZBA Case # AB-2023-06, Wioletta Bilan, 2209 Indianwood Road, 09-04-300-002 that the applicant's amended request based upon the plans date stamped June 1, 2023 for 2 variances from Zoning Ordinance #78 – Zoned SF, Article XXVII, Section 27.02 (A)(8) including: a reduced request to a 1,352.04-sq. ft. variance from the allowed Maximum Floor Area of Detached Accessory Buildings of 1,000-sq. ft. for existing detached accessory building of 714.04-sq. ft., and to build a new 650-sq. ft. shed, and a new 988-sq. ft. garage for a total of 2,352.04-sq. ft. of detached accessory buildings; and an 852.04-sq. ft. variance above the allowed Maximum Floor Area of all Accessory Buildings of 1,500-sq. ft. for existing accessory buildings of 714.04-sq. ft. and to build a new 650-sq. ft. storage shed, and a new 988-sq. ft. garage for a total of 2,352.04-sq. ft. of all accessory buildings, be granted because the applicant did demonstrate the following standards for variance have been met in this case and set forth facts that show:

1. The unique characteristics of the property - it is irregularly shaped, backs up to a series of condominiums in the back, the topography of the land is such that there are hills and valleys that are not related to the general conditions of the area of the property.
2. Other properties in the area do not have these unique characteristics and these are exceptional and extraordinary circumstances or conditions applicable to this property that do not involve properties in the same district.

3. The applicant has made a good faith effort to reduce her original requests and, also, the applicant indicated that there is a septic field involved so there are certain areas of the property they cannot use.

4. The granting of the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located. There were a number of neighbors at the two previous meetings that were in support of the request and there was no one from the neighborhood that had any objections to this.

5. The granting of these variances would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire or endanger public safety or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

The applicant will not add additional accessory square footage over the amount of 2,471.12-sq, ft.

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

B. AB-2023-14, Scott Kehrer, 2716 Mercury Ct., 09-20-477-008

Chairman Durham read the petitioner’s request as follows:

The applicant is seeking to extend the expiration date for the approved variance for ZBA Case AB-2022-03. That variance was from Article VI, Section 6.04, Zoned R-2

1. A 7.42 front yard setback variance from the required 35-ft. to add a second story addition 27.58-ft. from the front property line.

Mr. Scott Kehrer and Ms. Kristin Kehrer introduced themselves and summarized the variance request. They were approved last year but had sticker shock when they got the actual price and had difficulty finding someone to do the work. This is the same request they received approval for last year.

Board Member VanTassel stated that the subject property is on a cul-de-sac, so the setback area is from the center of the cul-de-sac.

Mr. Kehrer stated that their neighbors have the same setback as they do.

Trustee Flood stated that the Board cannot consider monetary reasons, but he did comment that the petitioner said they had a hard time getting a contractor.

Mr. Kehrer concurred.

Trustee Flood commented on the letter in the Board packet from a neighbor supporting the request. The petitioner is beyond the year extension, but he does not have a problem with it. As long as they pull the permit, this starts the year time frame allowance.

Building Official Goodloe agreed. He explained the process for obtaining a permit.

Trustee Flood moved, seconded by Board Member VanTassel, that in the matter of ZBA Case AB-2023-14, Scott Kehrer, 2716 Mercury Ct., 09-20-477-008, that the petitioner’s request to extend the expiration date for an approved variance for ZBA Case AB-2022-03; that variance was from Article
VI, Section 6.04, Zoned R-2, a 7.42-ft. front yard setback variance from the required 35-ft. to add a second story addition 27.58-ft. from the front property line, be granted for one year from the expiration date of 2-14-23 for plans date stamped received 12-23-21 because the petitioner did demonstrate the following standards for variance have been met in this case and they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty of not being able to get a qualified contractor to meet their needs.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: they are sitting on a cul-de-sac and because of the extra width, they cannot meet the front yard setback like other property owners in the subdivision.

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

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located and in fact will increase their property values. The petitioner has four children, and they are trying to provide a bedroom for each one.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire or public safety. The Fire Marshall has no concerns with this variance. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

This approval will expire on February 14, 2024.

Chairman Durham asked if there was any public comment.

No public comment was heard.

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

C. AB-2023-15, Kenneth Parker, 308 N. Baldwin, 09-06-100-013

Chairman Durham read the petitioner’s request as follows:

The applicant is seeking 2 variances from Zoning Ordinance #78 – Zoned SF

Article XXVII, Section 27.02 (A)(8)

1. A 760-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,400-sq. ft. to build a 2,160-sq. ft. pole barn.

2. A 1,266-sq. ft. variance above the allowed Maximum Floor Area of All Accessory Buildings of 1,900-sq. ft. to build a 2,160-sq. ft. pole barn in addition to an existing 1,006-sq. ft. attached garage.

Mr. Ken Parker introduced himself and explained the variance request. They are building the pole barn to store agricultural equipment and he explained the exact items that would be stored inside.

Trustee Flood stated that the packet contains several letters from neighbors all in support of the variance request.
Chairman Durham read the letter of support and he listed all of the neighbors who signed the letter.

Board Member VanTassel commented that all of the signees have properties that abut the applicant’s property.

Trustee Flood commented on Suburban Farms properties.

Board Member VanTassel asked what equipment would be stored and what is the applicant going to be growing.

Mr. Parker explained all of the agricultural equipment that he would store in the building. He will use the equipment to tend to a garden. He will continue to mow the currently mowed areas.

Trustee Flood stated that the applicant is not impeding on any wetlands.

Mr. Parker concurred.

Board Member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA Case AB-2023-15, Kenneth Parker, 308 N. Baldwin, 09-06-100-013, that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned SF, Article XXVII, Section 27.02 (A)(8) including a 760-sq. ft. variance above the allowed Maximum Floor Area of Detached Accessory Buildings of 1,400-sq. ft. to build a 2,160-sq. ft. pole barn and a 1,266-sq. ft. variance above the allowed Maximum Floor Area of All Accessory Buildings of 1,900-sq. ft. to build a 2,160-sq. ft. pole barn in addition to an existing 1,006-sq. ft. attached garage be granted for plans date stamped received May 26, 2023 because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty: this is a 10 acre+ parcel which requires a great deal of maintenance, and this maintenance requires a great deal of equipment. The equipment to be kept in working condition needs to have ample storage and these pieces of equipment cannot be stored outside and be maintained in a proper way.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone; the size of the property. The property is considered Suburban Farms and will be used for this purpose with a garden.

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

4. The granting of the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact that all of the neighbors that abut this property are in support of these changes.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets. There is also not going to be an increase of fire or endanger public safety. It is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Walker, yes; Flood, yes; Dunaskiss, yes; VanTassel, yes; Durham, yes. Motion passes 5-0.
D. **AB-2023-16, 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 2 variances 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 with an attached garage 10-ft. from the property line along Walnut St.

2. A 20-ft. front yard setback variance from the required 30-ft. to build a shed 10-ft. from the property line along Pine Ave.

Mr. Seit Selimi introduced himself and summarized the variance request. The property is adjacent to two roads. He has water in the rear of the property and along the side. He commented on the location of the septic that determines the location of the house.

Chairman Durham stated that the Board received information from the Township offices. The site plan survey shows the attached garage will be 19.24-ft. from the property line along Walnut. The petitioner is asking for 20-ft. which is over what is needed. There is not much difference between 20 and 19.24 feet.

Trustee Flood stated that he was concerned about the sight lines along Pine Avenue and the applicant has provided them with a survey showing that he will not be encroaching into the road right of way which will take care of that line of sight.

Chairman Durham asked the applicant if he would have any trouble building since it was so wet in the back.

Mr. Selimi replied no. He has never had water on the property.

Board Member VanTassel asked if there were any soil borings done.

Mr. Selimi replied yes, and they were good. He also had Oakland County out there and they were good at both the house location and septic location.

Board Member VanTassel asked what depth did they discover water.

Mr. Selimi replied 10-12 feet down and they did not find any water. He explained why he did not locate the septic in the original planned location.

Board Member VanTassel asked if there were sanitary sewers available.

Mr. Selimi replied no.

Mr. Steve Warco commented on the improvements being made on the lot and believes they are fantastic. He is also on the lake board. He supports the improvements being proposed.

Trustee Flood commented on a condition recommended by the Planning and Zoning Department being that the shed should not be built before the house is built.

Mr. Selimi concurred with that request.

Mr. Selimi replied that there is a 7 X 7-foot temporary shed that exists on the property.

Building Official Goodloe agreed with this request.
Board member VanTassel moved, supported by Board member Walker, in the matter of ZBA Case AB-2023-16, Seit Selimi, Vacant Parcel, 09-10-380-017 (1 parcel west of 900 Walnut Ave., adjacent to Pine Ave.) that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04 including a 20-ft. front yard setback variance from the required 30-ft. to build a house with an attached garage 10-ft. from the property line along Walnut St. and a 20-ft. front yard setback variance from the required 30-ft. to build a shed 10-ft. from the property line along Pine Ave. be granted for plans date stamped received May 30, 2023 conditioned upon the shed not being constructed until the house has been built and because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty: the property is exceedingly narrow and in order to be able to build, the petitioner needs to be able to build on the highest ground available. It is generally not related to the general conditions in the area of the property.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone; this is a very narrow parcel of land with a lot of frontage along Pine Street which is the main street in that area with properties to the west being single family lots.

3. The variance is necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity. This allows the applicant to make use of the property as it exists.

4. Granting of the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located based on the fact that there are already single family homes to the west side of Pine Street extended out into Elkhorn Lake and there are properties to the east along Walnut that have existed on similar narrow lots.

5. Granting this variance would not impair an adequate supply of light due to the fact that the property is long, and the building of a house does not impair the supply of light or air to adjacent properties. The granting of the variances would not unusually increase congestion on public streets; it is one single residential dwelling in an area filled with residential dwellings. There is also not going to be an increase of fire or endanger public safety; it is a single house on a narrow piece of property. It is not going to reasonably diminish or impair established property values within the surrounding area; the applicant is just asking to build what is already there and possibly he might increase property values of his neighbors.

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

6. PUBLIC COMMENTS

7. COMMUNICATIONS

Trustee Flood commented on the hiring of the new Fire Chief.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board member VanTassel, to adjourn the meeting at 8:01 pm.
Vote was as follows: Dunaskiss, yes; Flood, yes; Walker, yes; Durham; yes; VanTassel, yes. Motion passes 5-0.

Respectfully submitted,

Erin A. Mattice
Recording Secretary