CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, June 27, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 27, 2022, 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

ZBA MEMBERS ABSENT:
None.

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Tracey Guaiana Michele Demeriuk Rick Rice
Pam Kline Sandra Campos Deborah Jones
Jarle Amundsen Ron Gentry David Plunkett
Tom Williams

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

2. ROLL CALL
As noted above.

3. MINUTES
A. 06-13-2022, ZBA Regular Meeting Minutes

Trustee Flood moved, seconded by Vice-chairman Cook, to approve the 06-13-2022 minutes as amended, page 4, change June 22nd to July 5th.
Motion carried

4. AGENDA REVIEW AND APPROVAL

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

5. ZBA BUSINESS
A. AB-2022-19, Terri Chapman, 2740 Judah Rd. – APPLICANT WITHDREW REQUEST
B. AB-2022-20, Ronald Gentry, 1031 Elm Ave., 09-15-126-003
(Postponed from 5/23/2022 Meeting)

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78 – Zoned SE
Article V, Section 5.04
1. A 40-ft. front yard setback variance from the required 40-ft. to construct a pole barn 0-ft. from
the front property line along Elm Ave.

Article XXVII, 27.02(8) – Lot size over 2.5 acres
2. A 1,000 ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached
accessory buildings to build a 2,400-sq. ft. pole barn.
3. A 2,300-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory
buildings to build a 2,400-sq. ft. pole barn in addition to a 1,800-sq. ft. attached garage.

Mr. Ron Gentry introduced himself and summarized the variance request and the changes since the last
meeting presentation. He reduced the size of the proposed building to 35’ by 55’

Chairman Durham asked what the siding would be constructed of.

Mr. Ron Gentry replied that they are trying to get as close to the brick of the existing home. It will match the
sidings of the garage on the left side.

Vice-chairman Cook agreed with the brick matching the home. He was asked if he was running a business
out of the proposed building.

Mr. Gentry replied that the new building is for the storage of motor homes and his boat.

Vice-chairman Cook asked if there was a lift in the proposed building.

Mr. Gentry replied no.

Chairman Durham asked if he owned all three motorhomes.

Mr. Gentry replied yes.

Chairman Durham asked for public comment.

Ms. Connie Phillips 946 Walnut stated that the subject home is beautiful and is kept immaculate. She has
no issue with the request.

Mr. Elmer Claycum stated that he doesn’t like to see all of the vehicles out all of the time. He stated that
the petitioner sells on the internet and people come and pick them up at the subject property.

Chairman Durham asked if he was questioning the commercial use of the building.

Mr. Claycum replied yes. They do not need a business in the subdivision.

Board member Walker asked Mr. Gentry if he sells vehicles.
Mr. Gentry replied no. He has a place up in Burton, Michigan. He confirmed that he is storing three motor homes in the proposed building and a boat. Chairman Durham asked if the petitioner had a selling operation in Burton.

Mr. Gentry replied yes. He brings the cars home sometimes.

Chairman Durham suggested that maybe this is what is being seen.

Mr. Gentry replied that he has a few friends that stop by.

Ms. Phillips stated that the petitioner doesn’t seem to have an excess of cars.

Vice-chairman Cook moved, and Board member Dunaskiss supported, in Case # AB-2022-20, Ronald Gentry, 1031 Elm Ave., 09-15-126-003, that the petitioner’s request for 3 variances from Zoning Ordinance #78 – Zoned SE, Article V, Section 5.04 including a 40-ft. front yard setback variance from the required 40-ft. to construct a pole barn 0-ft. from the front property line along Elm Ave. and from Article XXVII, 27.02(8) – Lot size over 2.5 acres including a 525 square ft. variance above the allowed 1,400-sq. ft. maximum floor area of all detached accessory buildings to build a 1,925-sq. ft. pole barn and a 1,825-sq. ft. variance above the allowed 1,900-sq. ft. maximum floor area of all accessory buildings to build a 1,925-sq. ft. pole barn in addition to a 1,800-sq. ft. attached garage be granted because the petitioner did demonstrate the following standards for variances have been met in this case in that they set forth facts that show:

1. The petitioner does show the following practical difficulty: accessing a large part of his property due to the topography.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally apply to other properties in this same district or zone: the lay of the land doesn’t allow the petitioner to use the 6.2 acres that the petitioner owns total, and the usage is extremely affected by the topography of the property.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right posed by others in the same zone or vicinity based on the fact that when you are coming in off of that street, currently his vehicles are stored outside, and this variance will allow him to put them inside from the weather.

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. From an aesthetic standpoint, the petitioner is going to brick the front and side to match the home as close as possible. The petitioner will not run a business out of the proposed pole barn as he has presented today.

5. The granting of this variance will not impair an adequate supply of light 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, or endanger the public safety, and is 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: Dunaskiss, yes; Cook, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 5-0.
C. **AB-2022-23, Tracey Guaiana, 1150 Hemingway, 09-15-201-028**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-1

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)
1. A 10-ft. side yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the side property line to the south.
2. A 10-ft. rear yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the rear property line to the west.

Ms. Tracey Guaiana introduced herself and summarized the variance request. She wants to put up a privacy fence because of the dust and the problems that she is having. She provided court documents to the Board members.

Chairman Durham stated that she was warned by ordinance enforcement.

Ms. Guaiana concurred.

Chairman Durham stated that if the petitioner goes all the way to the property line, that would cause the need for a variance and that is why the ordinance officer was informed.

Board member Dunaskiss asked if the fences were on both sides of the house and going back.

Ms. Guaiana answered yes.

Board member Dunaskiss stated that the paperwork says to the south and the west and that would make them perpendicular.

Ms. Guaiana replied that they are down the south and the north side.

Board member Dunaskiss asked if fencing was going along the back.

Ms. Guaiana replied no.

Chairman Durham commented that with the number of cars in and out of there, it would raise concern for him for the clear sight angle along the easement that is there. He did not understand that the petitioner meant north and south side.

Board member Dunaskiss asked about the starting of the fence.

Ms. Guaiana replied it is going from the back all of the way down on both sides.

Board member Walker stated that he doesn't know if they can hear this because it was not advertised correctly.

Chairman Durham concurred.

Building Official Goodloe replied that if it is along the south and north, it was advertised incorrectly.

Chairman Durham commented that this would have to be re-advertised correctly.

Building Official Goodloe replied July 25th is the next meeting.
Ms. Guaiana replied she is available on that day.

Building Official Goodloe stated that they don’t need a date certain since it is going to be re-advertised.

Chairman Durham advised the petitioner to contact the Planning Department for the next steps.

Trustee Flood moved, and Vice-chairman Cook supported, in the matter of AB-2022-23, Tracey Guaiana, 1150 Hemingway, 09-15-201-028 due to an unusual circumstance of not having the correct location advertised for the direction of the proposed fence, the Zoning Board of Appeals has determined that this case should be sent back to the Planning Department for further scrutiny.

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

D. AB-2022-24, Jarle and Sissel Amundsen, 90 Shorewood Ct., 09-03-405-034

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-3

1. A 9.5-ft. front yard setback variance from the required 30-ft. to build a new home with an attached garage 20.5-ft. from the front property line (roadside).
2. A 4-ft. side yard setback variance from the required 10-ft. to build a new home with an attached garage 6-ft. from the side property line (south).
3. A 3-ft. side yard setback variance from the required 10-ft. to build a new home with an attached garage 7-ft. from the side property line (north).
4. A 1.87% lot coverage variance from the allowed 25% for a total lot coverage of 26.87%

Ms. Deborah Jones, the Architect, introduced herself as representing the petitioners in this case. She explained the variance requested. The existing house, garage, and shed will be torn down. The existing lot is difficult because the road sweeps around the property and once you apply the setbacks, the buildable area is reduced. The front setback variance is being reduced by almost 5 feet of what it is now. On the south side, the proposed is a 6-foot side yard and the existing house is 8.6 feet from this line. The existing shed is 2.2 feet which will be removed. The existing deck encroaches on the neighbor’s property, but they are proposing to demolish it which would be improving this situation. There are no variances requested on the rear yard, but the proposed house will have a covered deck that extends just to where the existing house sits now. The lakeside yard will be enlarged. The side yard on the north is proposing a 3-foot variance and the existing house on that side is 7’3” to 8’4” so this will be similar to where it is now.

Vice-chairman Cook thanked her for marking the plan so accurately. This is an improvement. He asked about the several large trees that exist on the property.

Ms. Jones replied these belong to the property to the south.

Vice-chairman Cook asked if this was a vacant property next to him.

Mr. Amundsen replied that there is a vacant lot there.

Ms. Jones replied that there are three lots to the south which are all challenging to build on.

Mr. Amundsen and Ms. Jones explained the access to his property.

Chairman Durham asked if the houses there were on sewers.
Mr. Amundsen replied yes.
Chairman Durham asked if the service leads will come into the west end of the proposed home.

Ms. Jones replied she does not know.

Mr. Amundsen replied now it is coming into the property from the west.

Chairman Durham asked if there was any public comment.

Mr. Rick Rice stated that the petitioner is a great neighbor, and he has no issues with the request.

Chairman Durham confirmed that a letter was provided to the Board in the packets. The letter is from Susan Winter, a neighbor at 150 Shorewood Ct., supporting the petitioner’s request.

Board member Dunaskiss moved, and Trustee Flood supported, in the matter of case AB-2022-24, Jarle and Sissel Amundsen, 90 Shorewood Ct., 09-03-405-034 in which the petitioner is seeking 4 variances from Zoning Ordinance #78, Article VI, Section 6.04, Zoned R-3 including a 9.5-ft. front yard setback variance from the required 30-ft. to build a new home with attached garage 20.5-ft. from the front property line (roadside), a 4-ft. side yard setback variance from the required 10-ft. to build a new home with attached garage 6-ft. from the side property line (south), a 3-ft. side yard setback variance from the required 10-ft. to build a new home with attached garage 7-ft. from the side property line (north) and a 1.87% lot coverage variance from the allowed 25% for a total lot coverage of 26.87% be granted 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 difficulty defined as something unique to the characteristics of the property and not related to the general condition of properties in the area. This is a lakefront property with a unique shape and trying to meet all of the setbacks without having a square lot that can be worked with makes it difficult going by the plans, the petitioner has done their very best to keep the home beautiful but also respecting the property lines as much as they are able to.

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 shape of the property, where it is located on the road makes it very difficult and they have worked hard to work within the confines but still build a home the size that is needed. The petitioner also kept the current setback on the north side of the existing home.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity to include these variances to build the home that they wish to have.

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: the neighbors support the petitioner’s requested variances.

5. The granting of this variance will not impair an adequate supply of light 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, or endanger public safety, and is not going to unreasonably diminish or impair established property values within the surrounding area, in fact, it may raise them, 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: Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes; Durham, yes. Motion passes 5-0.
E. AB-2022-26, Proposed ZBA Amended By-Laws

Chairman Durham stated that there was a mistake made in the previous By-Laws that were approved. This obvious error will be corrected.

Trustee Flood moved, and Chairman Durham supported, that the ZBA has noted the article and section of the amended Zoning Board of Appeals By-Laws that contains a proposed change and to bring the draft of the amended By-Laws back for possible adoption at the next regular ZBA meeting.

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

6. PUBLIC COMMENTS

Ms. Kathryn Kennedy expressed concern about the upcoming Master Plan approval date. She asked if it could be reconsidered.

Board members discussed the timeline of the Master Plan process and the steps that it contained.

7. COMMUNICATIONS

A. Memo from Planning & Zoning Specialist

Trustee Flood moved, and Chairman Durham supported, to cancel the July 11, 2022, Zoning Board of Appeals meeting due to a lack of agenda items.

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

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board member Dunaskiss, to adjourn the meeting at 7:46 pm.

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

Respectfully submitted,

Erin A. Mattice
Recording Secretary