

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY AUGUST 10, 2020 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, August 10, 2020, at 7:00 pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

Please note this meeting was done virtually via a "Go to Meeting" #914-793-997

ZBA MEMBERS PRESENT:

Loren Yaros, Chairman
Dan Durham, Vice-Chairman
Don Walker, PC Rep to ZBA
Lucy Koscierzynski, Secretary
Mary Painter, Alternate Board Member

ZBA MEMBER ABSENT:

Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:

David Goodloe, Building Official

OTHERS PRESENT:

Brian Winter	Dale Long
Susan Winter	Kim Long
Joseph Burgess	Matthew Menghini
Paul Klimek	

1. OPEN MEETING

Chairman Yaros called the meeting to order at 7:00 pm.

2. ROLL CALL

As noted

3. MINUTES

A. 7-27-2020, ZBA Regular Meeting Minutes

Moved by Secretary Koscierzynski, seconded by Alternate Board Member Painter, to **approve** the minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2020-16, Matthew Menghini, 1145 Arbroak, 09-10-127-005

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 1 variance from Zoning Ordinance No. 78:

Article VI, Section 6.04 Zoned R-2

1. A 1.5-ft. side yard setback variance from the required 10-ft. to build an attached garage 8.5-ft. from the property line (northwest).

Mr. Matthew Menghini, the applicant, was present via the GoToMeeting program.

Chairman Yaros asked what the applicant was planning on doing?

Mr. Menghini replied that he would be knocking down the garage, as it is. He is adding six feet to the side of it and rebuilding the garage with a bedroom on top to add to the number of bedrooms they have in their house.

Chairman Yaros said that he was out at the site and noted that there was 40-50-ft. to their neighbor, and felt there was plenty of room.

Chairman Yaros added that there was a letter from their neighbor stating that they have met with the applicant and they had looked at the plans, and they are in agreement with them and that is the neighbor on that side.

Mr. Menghini said that he spoke with all his neighbors in the court, and everybody around them to make sure that nobody had any problems with it.

Secretary Koscierzynski stated that she was at his property and said she didn't have a problem with it. She said that she thought the Practical Difficulty was there isn't enough space in between the neighbors for him to actually build an addition. She thought that he had the perfect situation with all the space above the actual garage to go in there and build some living space. She thought the way the houses on that block circle over there, she thought that they had the perfect situation with regard to utilizing the space above that garage and thought it was an excellent idea.

Alternate Board Member Painter said that she also went out and looked it over and 1.5-ft. she said she was behind it.

Board Member Walker agreed with the fellow members.

Vice-Chairman Durham stated that everything looked good to him.

Chairman Yaros asked if there were any emails or messages in the chat bubble? Building Official Goodloe replied there was not.

Moved by Secretary Koscierzynski, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-16, Matthew Menghini, 1145 Arbroak, 09-10-127-005, the petitioner's is requesting one variance from Zoning Ordinance No. 78, Article VI, Section 6.04, Zoned R-2; 1) a 1.5-ft. side yard setback variance from the required 10-ft. to build an attached garage 8.5-ft. from the property line (northwest) 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 that in this case the petitioner show the following Practical Difficulty: there isn't enough space between him and the neighbor to actually build an addition and that he is utilizing that space, above the garage, just empty space, to build an extra room; the following are exceptional or extraordinary circumstances or conditions that are applicable to the property involved that do not apply generally to other properties in the same district: the street he lives on it is in a circle, so the houses don't have a lot of space between them and felt that he was utilizing that space; the variance is 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 facts: the petitioner needs extra space for his growing family, and the house crowded, and there isn't enough space for an addition; the granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following finding of fact: the houses on the street in a circular and there is not enough space in-between all the other houses, his neighbors are fine with it; further based on the following finding of facts the granting of this variance will not impair adequate supply of light and air to adjacent properties and will not unreasonably increase the congestion in public streets; it will not

increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area: if anything this will increase property values; or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the township.

Secretary Koscierzynski amended the motion, Chairman Yaros re-supported to include that the Fire Marshal has signed off on this. Also, added to the motion that this addition would make the neighborhood look better.

Roll call vote was as follows: Walker, yes; Durham, yes; Koscierzynski, yes; Painter, yes; Yaros, yes. **Motion Carried 5-0**

B. AB-2020-17, Paul Klimek, 733 Mariday St., 09-01-378-048

Chairman Yaros read the petitioners request as follows:

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

1. An 8-ft. side yard setback variance (east) from the required 8-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line (east)
2. An 8-ft. side yard setback variance (west) from the required 8-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line (west)
3. A 10-ft. rear yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line

Mr. Paul Klimek the applicant, was present via the GoToMeeting program.

Chairman Yaros asked the applicant why he needs these variances? Mr. Klimek replied that he is going to be replacing the current chain-link fences set near his property line. He thought it was set 4-6 inches off the property line. He has dogs in his yard that are starting to challenge the 4-ft. fence, so he would like to make it a 6-ft. fence and then make it private as well. He has spoken with his neighbors on both sides, but didn't have any letters written from them, and said that all he can go off of is hearsay, that he had talked to them and they had no problem with it. It has nothing to do with any kind of neighbor nuisances just for his pets so they stay in the yard.

Chairman Yaros said the only problem he had was that he couldn't find any six-foot fences in the area that went down all the property lines. He found there were short pieces by their patios. He then went to the end of the street and looked down the backyards, and thought it was nice that you could see right through.

Alternant Board Member Painter said that she went over there the other day and one of their dogs she thought was going to come over the fence, and scared her. It is a big dog and she is not a fence person she hates fences, but that dog is big and they have two of them. She noted that they had lived there for 17 years. She asked how long have they had the dogs? Mr. Klimek said they have had four dogs ever since they moved there, they have all been fairly big, but none of them have challenged the fence, like this one. The dog that was outside they have had for two years, they rescued him. So, they have had him for two years and the small one, they don't have to worry about it. They like to rescue dogs but they don't like to have too many at once. So, it is kind of a future type thing too, in case they get another dog.

Secretary Koscierzynski said that she too felt like the dog was going to jump the fence. She noted that she also didn't see any other neighbors with a fence. She was leaning on having them have the fence because of the dog.

Alternate Board Member Painter noted that the property goes down in the back it is not like it is straight out and level with everybody else. She felt that it did not seem like any of the neighbors were going to be covered by the fences. She thought that the health and welfare of the neighbors, and if the dog jumps the fence, it could be a problem.

Secretary Koscierzynski noted that one side of the house doesn't have any shrubs, but the other side of the house, they have a nice line of really pretty shrubbery and for that reason, she felt the fence would look good over there.

Mr. Klimek stated that he wasn't sure if it was going to be a privacy fence or not, but they do want to go at least six feet. They haven't decided on the style of the fencing, but they did know that it is going to be at least six feet.

Board Member Walker asked the petitioner if a six-foot chain-link fence would work? He asked if the privacy part was the important part or the six-foot? Mr. Klimek replied that it was the height of it but they wanted to make it look nice too. They were also thinking about extending the fence as well. They have looked at extending the four feet and possibly painting the chain-link fence.

Vice-Chairman Durham asked if they have looked at alternate ways to control the dog-like underground fencing? Mr. Klimek replied that he didn't believe in underground fencing. Vice-Chairman Durham said that he has underground fencing and said that the only time the dog ever got hit by it was when it was in training. His dog knows it is there and avoids it. Mr. Klimek agreed with him and said it was not about the shock value, it was about the other dogs coming into his yard. Mr. Klimek stated that they have a lot of dogs that run freely in their neighborhood. Vice-Chairman Durham asked if they come over their fence? Mr. Klimek said no they just walk around the neighborhood. If he had underground fencing, the dog would be crossing it every time, because the dogs run the neighborhood. Vice-Chairman Durham noted that he has never seen it himself, but had heard people say that their dog will run through it.

Chairman Yaros stated that one of the things in his neighborhood, they don't have any fences, and everybody has dogs. He has never ever seen any dog leave their yard, they are all underground fences or they have been trained. He wasn't sure if those dogs were as big as Mr. Klimek's dog?

Mr. Joseph Burgess, 757 Mariday stated that he was the neighbor a couple of doors down on the east side. He commented that there are several dogs, and people tend to let them run the neighborhood. His only concern was about once they start the privacy, for instance, six-ft. privacy, the backyards are open and felt it was nice to be able to look out and see everybody's backyard, so it feels like they have more area than they really do. When they look at these lots' they are very thin but go deep. Most of the people tend not to use a lot of their back portion of their yards, so it ends up being like an open green space. The people directly behind them they are at a 90-degree angle to them. He was concerned that once they start, they are going to end up with a domino effect, and then everyone will be building the 6-ft. fences. Would they all be able to get that variance in an automatic way? He understood about the dogs.

Chairman Yaros stated that was one of his concerns. Where he lives it looks open with no fences. He felt with a chain-link fence they get that open feeling. Maybe a six-ft. chain-link fence would work. Once one starts it, it makes it very tough for them, because everybody has a reason for everything.

Mr. Klimek said going back to the underground fencing, if everyone else had underground fencing he wouldn't see the dogs roaming around as much. That doesn't seem to be the case in his neighborhood. He sees a lot of other stray dogs coming from other neighbors too, so that is his concern. He wants to protect his dogs as much as he wants to protect everyone else's dog in case something happens.

Chairman Yaros said that Mr. Burgess has brought up a good point, it does take away from the esthetics of the neighborhood.

Mr. Klimek stated that he was open to other types of styles, it was not just about privacy. As he starting thinking about it, he starting thinking about other esthetics as well, there are other types of fencing that was not underground fencing. He thought about extending the fence up to six-ft. as well.

Mr. Burgess stated that they had no objection to the chain-link fence. There is some value to having a nice big yard.

Secretary Koscierzynski asked the applicant if he would object to changing the wood fence to a chain-linked fence? Mr. Klimek replied that he was open to whatever makes the neighborhood happy. As well, like a price reduction too. They weren't dead set on a privacy fence, it was just a thought that they had before they knew the whole process that they would have to go through to do that. He was open to just going up a couple of feet.

Chairman Yaros thought that it was more reasonable to do it that way and to maintain it. A wooden fence is very expensive to maintain, besides putting it up. It will also make the lot look bigger.

Board Member Walker asked the applicant if he would be willing to change his application to a chain-link fence rather than the Board changing it for him? Mr. Klimek asked if there was an additional cost to do that? Chairman Yaros replied no. Mr. Klimek was fine with that.

Moved by Alternate Board Member Painter, seconded by Secretary Koscierzynski, that in the matter of ZBA case AB-2020-17, Paul Klimek, 733 Mariday St., 09-01-378-048, the petitioner is requesting 3 variances from Zoning Ordinance No. 78: Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) 1) an 8-ft. side yard setback variance (east) from the required 8-ft. to erect a 6-ft. chain-link privacy fence 0-ft. from the side property line (east) 2) an 8-ft. side yard setback variance (west) from the required 8-ft. to erect a chain-link 6-ft. privacy fence 0-ft. from the side property line (west) 3) a 10-ft. rear yard setback variance from the required 10-ft. to erect a chain-link 6-ft. privacy fence 0-ft. from the rear property line, be **granted** because the petitioner did demonstrate that the following standards or variances have been met in this case and that they set forth facts which show that in this case, the petitioner does show the following Practical Difficulty: he has dogs and one of them is a large dog, it would keep them on the property and away from neighbors; 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: the property does slant back towards the back of the lot; the variance is 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 facts: it would keep the animal from encroaching on the neighbors property; the granting of the variance or the modifications will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which property is located based on the following findings: hopefully the dogs will be controllable and will not jump the fence; further, based on the following findings of facts, the granting of this variance would not impair adequate supply of light and air to the adjacent properties; it will not increase the danger of fire or endanger the public safety and unreasonably diminish or impact established property values within the surrounding area or in any other way impair the public health, safety, comfort, morals, or welfare of the inhabitants of the township.

Roll call vote was as follows: Durham yes; Walker, yes; Painter, yes; Kosciuszynski, yes; Yaros, yes.
Motion carried 5-0

C. AB-2020-18, Brian Winter, 150 Shorewood Ct., 09-03-405-029

Chairman Yaros read the petitioner's request for 3 variances from Zoning Ordinance No. 78: Zoned R-3, Article XXVII, Section 27.01 (C)(1)(a):

- 1) A 12-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04 Zoned R-3

- 2) A 3-ft. side yard setback variance from the required 10-ft. to build a deck extension 7-ft. from the side property line (south)
- 3) A 13% lot coverage variance above the ZBA previously approved 36% for a total lot coverage of 49%

Chairman Yaros stated that they will be voting on the first variance separately because if the first variance gets turned down, there was no need to vote on the other two because they would not be allowed. The first variance has to pass before they go any further with the variance requests.

Mr. Brian and Mrs. Susan Winter the applicant, were present via the GoToMeeting program.

Chairman Yaros asked what the reasons were for needed these variances? He noted that they have a very narrow lot. Mr. Winter replied that they were in the process of rebuilding a deck because it is rotting. They have a small piece of property that is right in front of the deck in-between the deck, getting closer to the lake. It is kind of a useless piece of property. It is about 12-13-ft. from the current edge of the deck and then there is a sharp drop off with some large boulders that are there. Since they were rebuilding the deck, they thought this would be a perfect opportunity to take advantage of that little piece of property. When they looked at it, they looked at their neighbors and looked at where their decks were and realized that they would not be going any closer to the lake than the neighbors seem to be. They talked to all of their neighbors to make sure that they didn't feel disenfranchised if they were to extend this.

Chairman Yaros read a letter from Lynn Harrison, Zoning Coordinator, that stated what she found as far as lot coverage variances for Shorewood. She found that 275-sq. ft. garage was not added until 2013 and also, she could not find any information that 280-sq. ft. deck was added or the 158 covered walkway was added.

Chairman Yaros asked how long they have owned the home? Mr. Winter replied that they acquired the property in 2013, and they acquired it out of foreclosure from a bank. They were aware of the last approved variance in 2000 but they had not expanded any portion of the house since they purchased in 2013. The garage was already a part of the house and the prior owner used it as a living space, but it was originally framed for a garage and they converted it back to a garage.

Chairman Yaros stated that his problem with it was that they actually had more than 36% coverage before they made their initial request because they didn't have the garage or the cover walkway figured in and wasn't sure if they had the deck figured in. Although their original request was roughly 221-sq. ft. which seems like a small request, they had covered at almost 40% may be more than that before they even made the request. He thought that it was a lot of coverage for a small lot. It is a 38-ft. lot in an area that requires 50-ft. lots. That is why they needed to decide whether or not to grant this 12-ft. width variance. If it is turned down, he thought that everything would stay the way it was, but they wouldn't be able to have the deck. He did not think that they would be required to remove anything because it is existing, even though there was no variance for some of the things, prior to their purchase. It was not their fault it was there when they bought it.

Alternate Board Member Painter stated that when this was explained to her, it was stated that the first item needs to be considered to allow or deny the variance. That is the one they have to rule on first. Chairman Yaros replied that is the one they would have to rule on first. That will have to be a separate motion because if that is turned down the other two would not happen.

Board Member, Walker asked Building Official Goodloe the analysis from the Zoning Department, is the lot coverage at 49%? Building Official Goodloe replied yes. Board Member Walker asked if it is at 49% as it sits? Building Official Goodloe replied it is currently at 36% and it would be increased to 49%. Chairman Yaros stated that it is not 36% because the garage was not included nor was the covered walkway, that is what the memo said. Building Official Goodloe replied that they are just voting on this variance and its size.

Mrs. Susan Winter stated that she went through layers of confusion herself and she was intimately familiar with the property. She wanted to make sure that everyone understands what they were looking to do would increase the coverage by 3% of what is currently covered. There are items that were built prior to them owning the home, that were not accounted for.

Chairman Yaros asked if what they are saying is that it is at 46% coverage right now? Mrs. Winter replied correct. Chairman Yaros stated that the only thing that has been tallied was 36%, but they bought it at 46% and now they want to increase it to 49%. Mr. Winter replied correct.

Chairman Yaros asked if the new deck will be 121-sq. ft.? Mr. Winter replied yes, an additional 121-sq. ft.

Vice-Chairman Durham stated that it seemed like they were dealing with excessive coverage already, and then moving it up beyond that, he wasn't sure.

Chairman Yaros said that there is actually 46% coverage already, and they only want 3%, but still, it goes to 49%. He added that they first need to decide whether or not they are going to grant the 12-ft. variance from the 50-ft. minimum lot width, which would make it 38-ft.

Mrs. Winter asked if any of the Board Members were able to come out to the property to see how the neighbor's properties are? She wondered if anyone could comment on that? Alternate Board Member Painters stated that they look at each case separately, it didn't matter what the neighbors do. They look at each case separately on their own merit. Mrs. Winter said that the reason she was asking was that most of the properties were built a long time ago, and they are very narrow lots as someone has already mentioned. Right next door to them they thought they had 85% coverage and the home is right on the property line. She thought that where they are, and how the neighbors are set, she thought it would make a bit of impact on how this comes off, and how it fits in with the rest of the area. Alternate Board Member stated that a request to make the structure more non-conforming than it already was, so they would be added to the denominator.

Secretary Kosciierzynski commented that about the neighborhood. She noted that the Board is familiar with neighborhoods like this where the streets are narrow, the houses are small, and there isn't a lot of space in between. She stated that she went to the property and walked around back, as far back as she could. She spoke to one of their neighbors. She said she was familiar with the area. She asked the petitioner what their Practical Difficulty was? Mrs. Winter replied that the area that they are looking to extend the deck is a very narrow area, so it requires maintenance and they don't get any use out of it. Being able to extend the deck would make that space a lot more useful to them. It would make their deck and that portion of land, more functional, and would reduce the maintenance that they have in that section. It would allow them to be more in line with the neighbors in terms of their vantage point of the

lake, because the decks on three out of the four properties on either side of them go even further than what they are looking to go with, with this extension.

Chairman Yaros asked if there were any comments from the public? Building Official Goodloe replied there was not.

Chairman Yaros said that they needed a motion of the 12-ft. lot variance from the required 50-ft.

Vice-Chairman Durham felt that they didn't need to go through all the hoops on this variance because it is a variance that they can't do anything about. It was that wide when they got it.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-18, Brian Winter, 150 Shorewood Ct. 09-03-405-029, the petitioner's first request 1) a 12-ft. lot width variance from the required minimum 50-ft. lot width be **granted** because the property was that wide when they got it. It would be grossly unfair not to do so.

Roll call vote was as follows: Painter, no; Kosciuszynski, yes; Walker, yes; Durham, yes; Yaros, no.
Motion carried 3-2

Chairman Yaros noted that if anyone makes a motion, it will be on the 13% coverage variance from the approved 36% for a total lot coverage of 49%.

Chairman Yaros asked Building Official Goodloe if there was anyone else who wanted to speak on the matter? Building Official Goodloe replied no.

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-18, Brian Winter, 150 Shorewood Ct. 09-03-405-029, the petitioner is requesting a variance (number two variance of the three) 2) a 3-ft. side yard setback variance from the required 10-ft. to build a deck extension 7-ft. from the side property line (south) be **granted** because the petitioner did demonstrate that the following standards have been met in this case in that they set forth facts which show that in this case: the petitioner does show the following Practical Difficulty: due to the unique characteristics of the property it is 38.5 foot wide lot; the following are exceptional or extraordinary circumstances applicable to the property involved that do not apply generally to other properties: this is the narrowest of the properties in the area; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone: the house was already there and it was there when they purchased it; the granting of the of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district; further, it will not impair an adequate supply of light or air; it will not increase congestion in public streets; it will not increase the fire or endanger the public safety: there was a report from the Fire Marshal on that subject; it will not unreasonably diminish or impair established property values; 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: Durham, yes; Painter, no; Kosciuszynski, yes; Walker, yes; Yaros, no.
Motion carried 3-2

Moved by Board Member Walker, seconded by Alternate Board Member Painter, that in the matter of ZBA Case AB-2020-18, Brian Winter, 150 Shorewood Ct. 09-03-405-029, I would move that the petitioner's request for a variance (number three of three) 3) a 13% lot coverage variance above the previously approved 36% for a total lot coverage of 49% be **denied** because the petitioner did not demonstrate that the following standards for variances have been met in this case, in that they set forth the following set of facts: there is no Practical Difficulty, this matter, apparently the review of the file on this particular bit of property is listed, and it looked like there was a 36% lot coverage, but in reality from

discussion with the Township the lot coverage is already at 46%, the garage and the deck were somehow put on without contacting the Township, the petitioner did not do this they, purchased the property in 2013, the additions were already on the record at the time but it is still 46% lot coverage; it is not an exceptional, or an extraordinary circumstance: it was already done it shouldn't have been done, but it was done; the variance is not necessary for the preservation or enjoyment of a substantial property right: the number itself of 46% is an unbelievable lot coverage, and then to go to 49% and didn't believe it was justified; it would not increase congestion, but it is too much, it may impair the public health and safety in some fashion.

Roll call vote was as follows: Walker, yes; Durham, yes; Painter, yes; Kosciuszynski; yes; Yaros, yes. **Motion carried 5-0**

D. AB-2020-19, Dale J. Long, 405 Shady Oaks St., 09-10-254-006

Chairman Yaros read the petitioners request for 3 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.01 (C)(1)(a)

- 1) A 10-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04 Zoned R-3

- 2) A 15% lot coverage variance above the maximum lot coverage of 25% for a total lot coverage of 40%

Article XXVII, Section 27.03 (C)(3)(b)

- 3) An 11-ft. water's edge setback variance from the required 20-ft. for existing deck stairs to be 9-ft from the water's edge

Mr. Dale Long and Mrs. Kim Long, the applicants, were present via the GoToMeeting program.

Chairman Yaros asked the petitioners to explain what they wanted to do. Mr. Long replied that two of the three variances they kind of walked into. They were there and they are trying to get in compliance with those. They are looking to extend the decking on the second level of the deck. They have a split deck, they have the main deck and then one that is a little lower down the hill, to increase that roughly 220-sq. ft. The challenges they have are the slope and the grade of the land. The space that they have unusable is about 30 x 30 feet, there is about a 25-ft. drop in that space, which effectively renders useless for living and improving their quality of life. The secondary thing is they live on Shady Oak St. and their property is the epitome of Shady Oaks. They have six large oak trees and they are trying to work within the framework of, without disrupting their lives and trying to work within that natural framework.

Chairman Yaros stated that their hardship is basically they have trees and a slope that is severe, going down to the lake. Chairman Yaros added that they have quite a bit of decking that is existing and they are going to redo that deck. Is that correct? Mrs. Kim Long replied that it is falling apart. Mr. Long said that it was in disrepair. They wanted to increase their livable space, and due to some of the restrictions and constraints with what they are working with they wanted to go for an appeal to increase their living space. Chairman Yaros asked if they were talking about the decking, right? Mr. Long replied yes; which would make the back of the land much more inhabitable. They wanted to leverage their property to its fullest advantage basically. Mrs. Long stated that they want to do something similar to what their neighbors have done. They have made it a little bit broader, and so they have the ability to create storage space underneath. They are looking to do what their neighbors have done, and they are not looking for anything extraordinary beyond either of the neighbors.

Chairman Yaros asked about the stairs going down to the water? Mr. Long replied that the stairs were already there when they arrived there.

Vice-Chairman Durham asked if this was another one where they have to agree with the first variance before they can proceed? Chairman Yaros answered that is correct.

Vice-Chairman Durham questioned the petitioner if variance number one and number three came with the property? Number two is the one that they are trying to build to now? Mrs. Long replied correct.

Secretary Koscierzynski said she noticed that where their house is located, she felt it was an exceptional and extraordinary circumstance, the way the street is and how the house was situated she really believed they have a Practical Difficulty just because of where they were located and because of the neighborhood. The houses on that block are older and were in a circle. She did some examination online, as well, of the property and she did believe that they do have a Practical Difficulty because of the neighborhood and the streets.

Alternate Board Member Painter stated that there was a lot of stuff on the property. Chairman Yaros agreed and noted that there were a couple of sheds and a walkway on the side.

Mrs. Long said that there are a couple of X's on the map that they prepared, those items were removed and they are not on the property. Mr. Long said that there is only one shed on the property. Chairman Yaros asked which shed was left? Mr. Long replied between the garage and the main house. Alternate Board Member Painter stated that they don't rely on the maps, they all go out and they look at it in person.

Chairman Yaros said they have a big wooden deck behind the house and they have a deck that is small going down to the lake. They want to put this 25x10-ft. shelf deck out there that is going to just about cover, width to width of their lot because their lot is only 40-ft. wide. They don't have a lot of width in between. He felt that was a lot of coverage, they almost got all decking between their house and the lake. He said they are rebuilding part of an old deck, and knew that was part of it.

Mrs. Long said that they had a horticulturist come out and look at the area, and how they could expand their space, so as not to damage the roots of the trees and things of that nature. Because everything was healthy, they wanted to make sure that they were not going to do any damage to the trees. They had a couple of people come out because the retaining walls were falling apart, and to find out what they needed to do to fix this, it's falling apart on both sides of the house. If the Board Members were there, they saw that. That needs to be repaired before they can even do the deck. They need to know how far back they can go without doing any damage to any of the roots of the trees. They don't want to come back too far and dig too far into the ground to be able to create that storage space. Coming in from the lake, they are going out a little bit out. Mr. Long said that the anticipation is it would be the maximum, 25-ft. wide. It is probably going to be a little bit lower when they accommodate stairs. The four trees that are close to the decking area, they are working within those confines, which will not be closer than 8-10-ft. from the north and the south. Mr. Long said that he doesn't want it wall to wall either. Mrs. Long stated that they will have a huge gap on the side for maintenance purposes. They did speak with both of their neighbors.

Chairman Yaros asked Building Official if there were any residents that wished to comment. Building Official Goodloe replied no.

Secretary Koscierzynski started that the Fire Marshal does not have a problem with this.

Moved by Vice-Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-19, Dale J. Long, 405 Shady Oak Street, 09-10-254-006, the petitioner is seeking three variances,

this motion is for the first one for Article 27, Section 27.01 (C)(1)(a); 1) a 10-ft. lot width variance from the required minimum 50-ft. lot width, be **granted** because the lot was this size when the petitioner bought it, they did nothing to make it worse, they cannot make it better, and would be unfair for them to stop moving forward momentum at this point.

Roll call vote was as follows: Painter, no; Koscierzynski, yes; Durham, yes; Walker, yes; Yaros, yes.
Motion carried 4-1

Moved by Board Member Walker, seconded by Alternate Board Member Painter, that in the matter of ZBA case AB-2020-19, Dale J. Long, 405 Shady Oaks St., 09-10-254-006, is seeking the second variance (the second variance of three) from Zoning Ordinance #78 Article VI, Section 6.04 Zoned R-3; 2) a 15% lot coverage variance above the maximum lot coverage of 25% for a total lot coverage of 40%, I would move that the petitioners request be **denied** because the petitioner did not demonstrate the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner did not show any Practical Difficulty due to the uniqueness of the property; the following are not exceptional or extraordinary circumstances, or conditions applicable to the property: this is just a request to increase a coverage from 25% to 40%; the variance is not necessary for the preservation and enjoyment of a substantial property right: because they still have the property rights, they just want to cover it up with a very large deck; it would not increase congestion or fire or public safety, or in any way impair the public health.

Roll call vote was as follows: Durham, yes; Walker, yes; Painter, yes; Koscierzynski, yes; Yaros, yes.
Motion carried to deny 5-0

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case AB-2020-19, Dale J. Long, 405 Shady Oaks St., 09-10-254-006, the petitioner is seeking the third variance (the third of three) from Zoning Ordinance #78 Article XXVII, Section 27.03 (C)(3)(b) 3) an 11-ft. water's edge setback variance from the required 20-ft. for existing deck stairs to be 9-ft. from the water's edge be **denied** because the petitioner did not demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner did not show any Practical Difficulty due to the uniqueness of the property; the following are not exceptional or extraordinary circumstances, or conditions applicable to the property; the variance is not necessary for the preservation and enjoyment of a substantial property right; it would not increase congestion or fire or public safety, or in any way impair the public health.

Roll call vote was as follows: Koscierzynski, yes; Walker, yes; Durham, no; Painter, yes; Yaros, yes.
Motion carried to deny 4-1

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Harrison dated August 4, 2020, Dates which cases can be postponed to

Memo from Planning & Zoning Coordinator Harrison dated August 4, 2020, regarding canceling the August 24, 2020 meeting due to lack of agenda items.

Moved by Alternate Board Member Painter, seconded by Vice-Chairman Durham, to cancel the August 24, 2020 meeting due to lack of agenda items.

Roll call vote was as follows: Walker, yes; Durham, yes; Koscierzynski, yes; Painter, yes; Yaros, yes.
Motion carried 5-0

8. COMMITTEE REPORTS

None

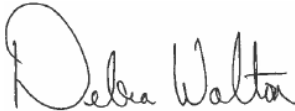
9. MEMBERS' COMMENTS

Board Member Walker stated that he had the honor of working the elections last Tuesday. If anyone knows young people in college or high school, that would like to do this, it is a great civil lesson.

10. ADJOURNMENT

Moved by Vice-Chairman Durham, seconded by Secretary Kosciuszynski to adjourn the meeting at 8:20 pm.

Respectfully submitted,



Debra Walton
Planning & Zoning Clerk
Charter Township of Orion

September 14, 2020

Zoning Board of Appeals Approval