The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, September 13, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT (Board Member Location):
Dan Durham, Chairman
Don Walker, PC Rep to ZBA
Mike Flood, BOT Rep to ZBA
Tony Cook, Vice-Chairman
Diane Dunaskiss, Board Member

ZBA MEMBERS ABSENT:

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Linda Moran
Daryl and Amy Mulonas
Dan MacLeish
Rudolph Bone
Forest Siegel
Donni Steele

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

2. ROLL CALL
As noted

3. MINUTES

A. 8-23-2021, ZBA Regular Meeting Amended Minutes

Moved by Board member Dunaskiss, seconded by Vice-Chairman Cook, to approve the minutes as presented.
Motion carried.

4. AGENDA REVIEW AND APPROVAL

Moved by Trustee Flood, seconded by Chairman Durham to approve the agenda as presented.
Motion carried.

5. ZBA BUSINESS

A. AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidewell numbers 09-04-402-033 & 034 (postponed from 7/26/2021 meeting)

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78
1. A 7.08-ft. side yard setback variance from the required 20-ft. to construct a 2-unit condominium 12.92-ft from the adjacent condominium unit (south, between units 32 & 33 - from existing covered porch to proposed building).
2. A 1-ft. rear yard setback variance from the required 30-ft. to construct unit 33, 29-ft from the rear property line.
3. A 1.5-ft. rear yard setback variance from the required 30-ft. to construct unit 34, 28.5-ft. from the rear property line.

Mr. Dan MacLeish introduced himself to the Board and asked for the variance requests to be tabled to a future date.

Trustee Flood asked why.

Mr. MacLeish stated that there are some concerns in the neighborhood to work through and he is still working on the architectural details, including streetscape, so the community could understand it better.

Chairman Durham outlined the potential dates.

Mr. MacLeish asked for November 8, 2021.

Mr. Robert Siegel, representing Robert and Jacqueline Bone, and stated that they have objections to the variance requests. He stated that they presented documents to the Board outlining the objections. He provided history of the variance requests and history of the interaction with Mr. MacLeish. He suggested that the variance requests be withdrawn.

Chairman Durham stated that the petitioner has the right to request to be postponed.

Board member Walker stated that he is disappointed that they are still at this stage. He stated that he has pushed for the consulting meetings between parties to try to settle disagreements. He suggested that they ask for an October date.

Mr. MacLeish commented on their history with the project and their progress on the projects. He stated that they would like to come back when the case is complete.

Board member Dunaskiss suggested that the petitioner continue to have contact with the neighbors as they update their plans.

Trustee Flood commented that he will not postpone another postponement after the November date.

Trustee Flood moved, and Chairman Durham supported, at the petitioner’s request to postpone until November 8, 2021 the Cases of AB-2021-15, MacLeish Building Inc., Vacant Property North of unit 32 Burniah Ln., sidewell numbers 09-04-402-033 & 034; Case #AB-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidewell numbers 09-04-402-035 & 036; Case #AB-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidewell numbers 09-04-402-037 & 038; Case #AB-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidewell numbers 09-04-402-041 & 042; Case #AB-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidewell numbers 09-04-402-047 & 048 and Case #AB-2021-45, MacLeish Building Inc., Vacant Property between 116 Sandhills Ln. & 134 Sandhills Ln, sidewell numbers 09-04-402-067 & 068.

Roll call vote was as follows: Durham, yes; Dunaskiss, yes; Cook, yes; Flood, yes; Walker, yes. Motion failed 5-0.
B. **AB-2021-16, MacLeish Building Inc., Vacant Property 2 Parcels North of unit 32 Burniah Ln., sidwell numbers 09-04-402-035 & 036 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78

1. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from an adjacent condominium unit (north, between proposed units 36 & 37).
2. A .5-ft. rear yard setback variance from the required 30-ft. to construct unit 36, 29.5-ft from the rear property line.

C. **AB-2021-17, MacLeish Building Inc., Vacant Property South of unit 39 Burniah Ln., sidwell numbers 09-04-402-037 & 038 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78

1. A 10.26-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 19.74-ft from the adjacent condominium unit (south, between proposed units 36 & 37).
2. A 10.26-ft. side yard setback variance from the required 25-ft. to construct a 2-unit condominium 14.74-ft from an adjacent condominium unit (north, between units 38 & 39 – from the existing covered porch to proposed building).
3. An .5-ft. rear yard setback variance from the required 30-ft. to construct unit 37, 29.5-ft from the rear property line.
4. An 8.5-ft. rear yard setback variance from the required 30-ft. to construct unit 38, 21.5-ft from the rear property line.

D. **AB-2021-18, MacLeish Building Inc., Vacant Property North of unit 40 Burniah Ln., sidwell numbers 09-04-402-041 & 042 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78

1. A 9.5-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20.5-ft from the adjacent condominium unit (south, between units 40 & 41 – from existing covered porch to proposed building).
2. A 10-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 20-ft from an adjacent condominium unit (north, between units 42 & 43 – from existing covered porch to proposed building).
3. An 8-ft. rear yard setback variance from the required 30-ft. to construct unit 41, 22-ft from the rear property line.

E. **AB-2021-19, MacLeish Building Inc., Vacant Property North of unit 46 Burniah Ln., sidwell numbers 09-04-402-047 & 048 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 4 variances from Zoning Ordinance #78

1. A 16.17-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 13.83-ft from the adjacent condominium unit (south, between units 46 & 47 – from existing covered porch to proposed building).
2. A 14.83-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 15.17-ft from an adjacent condominium unit (north, between units 48 & 49 – from existing covered porch to proposed building).
3. A 17.5-ft. rear yard setback variance from the required 30-ft. to construct unit 47, 12.5-ft from the rear property line.
4. A 10-ft. rear yard setback variance from the required 30-ft. to construct unit 48, 20-ft from the rear property line.

**F. AB-2021-45, MacLeish Building Inc., Vacant Property between 116 Sandhills Ln. & 134 Sandhills Ln, sidwell numbers 09-04-402-067 & 068 (postponed from 7/26/2021 meeting)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78

1. A 6.58-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 23.42-ft from the adjacent condominium unit (south, between units 68 & 69 – from existing covered porch to proposed building).
2. A 6.75-ft. side yard setback variance from the required 30-ft. to construct a 2-unit condominium 23.25-ft from an adjacent condominium unit (north, between units 66 & 67 – from existing covered porch to proposed building).

**G. AB-2021-52, Daryl & Amy Mulonas, 732 Lawson, 09-09-276-023**

Chairman Durham read the petitioner’s request as follows:

The petitioners are seeking 2 variances from Zoning Ordinance #78 – Zoned R-3 Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

1. A 20-ft. front yard variance from the required 30-ft. for a 6-ft. privacy fence to be 10-ft, from the front property line.
2. 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 (north).

Mr. Daryl Mulonas introduced himself and his wife Amy Mulonas to the Board and summarized his variance request. They are looking for screening for heating and cooling units next door. They are currently waiting on a survey due to delays with COVID. They have talked to the neighbors and they do not have a problem with it.

Chairman Durham stated that the Board is in receipt of information that says that the neighbors are concerned about it. He asked why a 6 foot fence.

Mr. Mulonas replied that the 6 foot will block the sound more and will provide more privacy.

Chairman Durham stated that the spec sheet on the units show that the decibel level is low.

Mr. Mulonas replied that the units never shut off.

Trustee Flood stated that according to ordinance, they can put up a 4 foot fence without a variance and also they could add arborvitae without variance.

Mr. Mulonas replied that he doesn’t care for arborvitae due to damage their roots cause.

Trustee Flood reiterated that they could put up a 4 foot fence at the property line. He stated that they do not allow the fences to extend past the front part of the home.

Chairman Durham stated that the planning and zoning department requested information from the petitioner which they were never provided. He asked if the petitioner got repeat emails from the department.

Mr. Mulonas replied that they were in contact with the department.

Board member Walker asked how long they have lived in the house.
Mr. Mulonas replied for 3 years.

Board member Walker summarized letters from 3 neighbors all objecting to the variance request.

Mr. Mulonas asked if he could have copies of the letter.

Chairperson Durham confirmed that he could get the letter from the Township.

Board member Dunaskiss read the letters from the neighbors located at 636 Lawson Drive and 616 Lawson Drive expressing their objections to the variance request.

Chairman Durham stated that he received copies of emails from the zoning department to the petitioner and he read them aloud in which the department asked about the fence’s location to the front property line. He asked if the information was ever received.

Mr. Mulonas commented that he provided the information to the department.

Chairperson Durham asked for public comment.

Linda Moran, Polly Ann Trail Manager, introduced herself. She explained her concern about having a cluttered looking area and that the property across the street is owned by the Polly Ann Trail. She doesn't have a problem with the 4 foot fence but explained how a 6 foot fence looked clutter and not aesthetically pleasing to look at.

Chairperson Durham stated that they have had many fence cases lately and he explained how each case is seen individually.

Board member Dunaskiss asked if the petitioner had considered any other options.

Mr. Mulonas replied that they have looked at other options including vegetation but they are concerned about the roots near the septic tank.

Board member Dunaskiss asked about the units on the other side.

Mr. Mulonas commented on how these units were different than the other side.

Chairperson Durham asked about the relationship with the neighbors.

Mr. Mulonas replied that they do not hang out, but they aren’t enemies. They also wanted to cover up the trash and blight on the neighbor's property.

Mrs. Mulonas commented that she had a conversation with the neighbors and thought it was fine but then they took action the next weekend and now they are objecting.

Mr. and Mrs. Mulonas commented on their neighboring properties. They knew they could put up a 4 foot fence and added that he really didn't know where the property line is. He added that he cannot get a survey because of COVID.

Board member Walker suggested other vegetation that could be planted to help with the noise. He asked if they knew they could do that.

Mr. Mulonas answered yes.

Chairman Durham commented that it sounds like he does not know where the property line is so why is he here without all of the information.
Mr. Mulonas replied that they thought they could get the survey done soon but wanted to get the fence up before winter.

Chairman Durham stated that he could not support the variance tonight because of the lot line.

Mr. Mulonas commented on the neighbor’s letter and probable lot line.

Chairman Durham commented that even with a 4 foot fence, they still need a survey.

Mr. Mulonas commented on the probable location of the fence.

Chairman Durham added that the petitioner could call ordinance enforcement with the Township regarding the condition of the neighbor’s property. He gave the petitioner the options for this case.

Mr. and Mrs. Mulonas commented on their interaction with the neighbors.

Chairman Durham added that the ordinance officer could possibly help this situation.

Vice-chairman Cook stated that the application causes some concerns for him and makes him question why the fence is being asked for. He stated that the options presented do not necessarily mean that if they come back, it will be granted; there are issues with the application.

Board member Walker agreed with Vice-Chairman Cook. The application is flawed and he cannot vote on it. There is not enough information here for him to vote in his favor.

Petitioner asked to be postponed to a later date to October 25, 2021.

Board member Walker moved, and Trustee Flood supported, at the petitioner’s request to adjourn Case #AB02021-52, Daryl & Amy Mulonas, 732 Lawson, 09-09-276-023 until October 25, 2021.

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

Building Official Goodloe stated that the rules are in place for a reason and they can call the Planning and Zoning Department for help and guidance.

Trustee Flood suggested that they look at a 4 foot fence option.

6. PUBLIC COMMENTS
   Donni Steele thanked the Board for their service.

7. COMMUNICATIONS
   A. Date Certain Memo

8. COMMITTEE REPORTS
   None

9. MEMBERS’ COMMENTS
   Trustee Flood stated that the construction of the new facility is on schedule.

10. ADJOURNMENT
    Moved by Chairman Durham, seconded by Trustee Flood to adjourn the meeting at 7:57 pm
    Respectfully submitted,
    Erin A. Mattice
    Recording Secretary