The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, September 14, 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:**
- Dan Durham, Vice-Chairman
- Don Walker, PC Rep to ZBA
- Lucy Koscierzynski, Secretary
- Mary Painter, Alternate Board Member
- Mike Flood, BOT Rep to ZBA

**ZBA MEMBER ABSENT:**
- Loren Yaros, Chairman

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

**OTHERS PRESENT:**
- Lewis Baker
- Douglas Featherston
- Shaun Lewis
- Jake Mozal

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

2. **ROLL CALL**
   As noted

3. **MINUTES**
   A. 8-10-2020, ZBA Regular Meeting Minutes
   Moved by Secretary Koscierzynski, seconded by Acting Chairman Durham, 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-2020-22, Shaun Lewis, 1398 Goldeneye, 09-25-401-026, Rehearing
   Acting Chairman Durham read the petitioner’s request as follows:
   
   The petitioner has requested a re-hearing of AB-2020-12 with new evidence. The variance request was for three (3) dimensional variances from Zoning ordinance No. 78 (see Public Hearing notice published in the Lake Orion Review on July 8, 2020). The new evidence provided is as follows:
   
   - A similar situation was approved in 2018 for 3379 Mallard Lane
   - Correspondence from petitioner’s neighbors endorsing the request
   - Correspondence from HOA President endorsing the request
Mr. Shaun Lewis, the applicant, was present via the GoToMeeting program.

Acting Chairman Durham asked the applicant why he was back?

Mr. Lewis said that what they were trying to do was build an outdoor living space with a deck and a covered portion to the deck to create a lanai area. Most of the houses in their area already either have a full sunroom, cover deck, or patio. They are trying to conform to the area. Something like what other properties have done, similar to what the neighbor behind them had done. (He noted that the neighbor was actually on the GoToMeeting). They were excited to do something similar to what they had done. They were disappointed to hear that it was allowed for the neighbor, but not for them. They were hoping that they could bring that up as new evidence to show that they share the same common area, and they don't have any homes behind them. They would not be impeding any neighbors to the left or right of them.

Acting Chairman Durham stated that in the information that they brought forward as new evidence, the fact that someone else has it is not something that he tends to lean heavily on because that presupposes that the conditions are exactly the same, and very often they are not. It is a good thing to bring up and maybe the rest of the Board will fall in with it, but it is not something that has swayed his vote.

Secretary Kosciertzynski read into the record that the Fire Department has no concerns about this.

Acting Chairman Durham asked Building Official Goodloe if all the extensive correspondences needed to be read into the record? Building Official Goodloe replied no, but noted that he should read the names into the record and whether they are in support or against it. Trustee Flood noted that their addresses should be read in also.

Alternate Board Member Painter said that she had also read the notification from the Fire Department, and it said “no comment”, it did not say no concerns. She added that when she first got on the board, and when they talked about coming back, actually with new evidence, correspondence from neighbors and other people, just because other people have had it done, it has nothing really to be concerned with what was happening. Set facts concession were already given in a Consent Judgement.

Board Member Walker asked if the person they granted the variance for in 2018, was on the GoToMeeting? Mr. Jake Mozal replied yes.

Board Member Walker said that he read all the documents from the variance in 2018, one of the reasons that one of the Board Members gave was that their house had a door on the top level that led to nowhere; is that correct? Mr. Mozal replied that is correct. Mr. Mozal added that it led to a project of elevation that either it could be a deck or a sunroom, and they decided to build a sunroom. Board Member Walker asked Mr. Mozal how high was that door off of the ground? Mr. Mozal replied 9-10-ft.

Board Member Walker questioned Mr. Lewis if he had such a door in his home as well? Mr. Lewis replied yes, they do. Board Member Walker asked if it was 9 or 10-ft.? Mr. Lewis said theirs was very similar and thought it was 7-8-ft. above.

Acting Chairman Durham thought that Alternate Board Member Painter was not able to complete her comment. Alternate Board Member Painter said that the last statement she made was that the setback concessions were already given in the Consent Judgement.

Trustee Flood stated that he reviewed all the documents, he watched the prior meeting on ONTV. He felt the problem was that people were having trouble with the roof. He asked what happens if they
wanted to put a sun-room on with a roof and 3 or 4 walls? Acting Chairman Durham noted that the roof did seem to be a big part of the sinking point last time.

Acting Chairman Durham asked if there were any public comments? Building Official Goodloe replied that he did not see anything in the chat bubble or the email.

Acting Chairman Durham read into the record the following correspondences: 1406 Goldeneye Anthony and Jennifer Catalina, who are in favor; 1414 Goldeneye Stephanie and Leo Sacco were in favor; 3379 Mallard Lake Jake and Crystal Mozal were in favor; Andres Mituta HOA Board President was in favor; 1390 Goldeneye Lane Bret & Lisa Smith were also in favor.

Building Official Goodloe stated that the petitioner had no idea that the setback would affect his property. When they look at it, it doesn’t even allow for a deck, if they did the numbers. He thought splitting these two apart into two separate motions may be an option. Acting Chairman Durham stated that they have new evidence; will the motion be directed that they will either succeed with everything he wants or succeed with less?

Board Member Walker said he reviewed the documents from Mr. Mozal and the documents that the Lewis’s sent last time and he did agree with the Board Member Painter in that he didn’t think that the information they brought qualified as new information. In the previous meeting, he remembered saying distinctly that he was concerned because if you give one variance for one of these, how can you deny everyone. But at the same time, each one of these variances is looked at individually, not collectively. He didn’t believe that the Mozal’s or the Lewis’s had done anything wrong. They didn’t know that those restrictions were there, the builder knew. They built those houses so close to the wetlands. He asked if the Lewis’s would compromise some of their requests, maybe shrink it down? Mr. Lewis replied regarding the size of the roof structure itself, they could move that in probably about 4-inches to still be within the area that they were trying to build. Otherwise, it didn’t allow for the structure that they are trying to achieve.

Board Member Walker stated that he didn’t know how the board were all going to vote, but he was trying to do is to put them in a good position to get something out of this for all of their efforts.

Mrs. Lindsey Lewis asked why having the partial roof is such a big deal? She didn’t understand why it was in question. Acting Chairman Durham stated that he didn’t see it as an issue either.

Secretary Koscierny commented that she understood that they take each individual case separately. However, in this situation, these people have a house with a door, and they have little kids they can’t use at all. She wouldn’t even open the door in fear of falling. She stated that a lot of people in the neighborhood have these decks and the doors are high up and they can’t use them. Having kids and a dog, that door would have to stay locked because it is no use to them. She would like to see them have this deck because she didn’t think it was fair that they have a door that they can’t use.

Alternate Board Member Painter stated that it all goes back to the people that set up and worked on the Consent Judgment. These things were agreed upon, and she felt bad that she was saying this but the problem is that they have builders that go in and they don’t care, they just want to do is sell houses. Then it is dumped in their lap because they have to come in and clean it up because they built the house so that stuff couldn’t get added in. Building Official Goodloe agreed with Alternate Board Member Painter and noted that he was going to start looking at that when they do their plan reviews because the homes are sitting right on the setback. Alternate Board Member Painter said it was not their fault it was the builders. It was because they were allowed to build these houses like this.

Alternate Board Member Painter asked the petitioner what the builder told them when they questioned about putting something in the rear? Mr. Lewis replied that he was upset about the whole situation.
They didn’t realize what all would be involved. They told them that they would need to get approval to build a deck, and they understood that but didn’t realize the extent of the restrictions on them, they only had 4-inches. They had their door wall screwed shut for two years on their dream home. They haven’t been able to go out the back and was looking forward to doing something there. He knew that there might be a concern and setting a precedent by them going beyond the lot line. He noted that most of the neighbors around them already have something like that. He added that they back up to a common area. They don’t have any other neighbors behind them directly. He felt they were a unique situation and didn’t think it would necessarily apply to someone else trying to do the same thing. Their house is right on the lot line and it creates a practical difficulty for them to enjoy the same things that, the neighbors behind them or to the left have. They just want to build something that conforms with the look of the neighborhood and what they have.

Acting Chairman Durham said he felt bad that they were not told by their builder what they could do an what they couldn’t do. He hated to see the resident held responsible for something the builder should have told them.

Trustee Flood said that they have a lot of problems with these commons area, in certain subdivisions that have been built. When they go to prove some practical difficulty, one of the biggest things that he looks at is if it is self-created by the applicant. The evidence shows clearly that this was not the applicant’s self-creation, this was done by the developer.

Acting Chairman Durham asked Building Official Goodloe if there was any public comment? Building Official Goodloe answered he didn’t see any comments yet.

Board Member Walker asked Building Official Goodloe if caller #2 had anything to add. They did not.

Mrs. Lewis said that the partial roof, they had in mind down the road, thought that they may screen it off, which makes a difference, with it being a roof structure. That was part of their vision and dream for their outdoor living space.

Moved by Secretary Kosciierzynski, seconded by Trustee Flood, in the matter of ZBA case #AB-2020-22, Shaun Lewis, 1398 Goldeneye, 09-25-401-026, Re-Hearing, I would move that the petitioner’s request as presented in ZBA case #AB-2020-12 for the following: a 4-ft. rear yard setback variance from the required 20-ft. to build a deck 16-ft. from the rear property line; a 15-ft. rear yard setback variance from the required 35-ft. to build a roof over a portion of a deck 20-ft. from the rear property line; a 3.43% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot Coverage of 28.43%; based on the following new evidence: a similar situation was approved in 2018 for 3379 Mallard Lane; correspondence from petitioner’s neighbors endorsing the request; correspondence from HOA President endorsing the request, be **granted** because the petitioner has demonstrated 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 does show the following Practical Difficulty, due to unique circumstances of the property not related to general conditions in the area of the property: the lot line, and the house was built that way, it was built by the developer; the following are exception or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: the door is so high up off the ground that they can’t use 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 facts: that there are several homes in that area that have the same thing; 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 findings: it conforms with the look of the neighborhood; further, based on the following facts of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent properties; unreasonably increase the congestion in public streets; increase the danger of fire or endanger the public safety; unreasonably diminish or
impair established property values within the surrounding area or in any respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Secretary Koscielny amended the motion, Trustee Flood re-supported to include that the Fire Marshal had responded with having no concern with this case; the Practical Difficulty was not self-created by the applicant.

Roll call vote was as follows: Walker, yes; Flood, yes; Painter, no; Koscielny, yes; Durham, yes. Motion Carried 4-1

B. AB-2020-20, Douglas Featherston, 2500 Flintridge, 09-29-429-021
Acting Chairman Durham read the petitioner’s request as follows:

The petitioner is requesting 1 variance from Zoning Ordinance #78

Article XXVII, Section 27.02(A)(5) – Zoned R-2

1. A 2.3-ft. variance above the 11.2-ft. mid-point measurement of the principal structure, to build a detached garage that measures 13.5-ft. to its mid-point.

Acting Chairman Durham asked if the petitioner was present. He asked for the petitioner to let the Board know why the detached garage needed to be higher?

Mr. Douglas Featherston, the applicant, was present via the GoToMeeting program.

Mr. Featherston replied that he needed the garage to be higher because he needed a 10-ft. door in order to get his camper into the garage.

Acting Chairman Durham noted how deep it would be placed on the lot. He asked if that was the best spot for it? Mr. Featherston replied yes because they would still have room to utilize their backyard.

Secretary Koscielny commented that on Mr. Featherston’s street she noticed that a lot of the neighbors have the same thing that Mr. Featherstone is asking for.

Trustee Flood said that Mr. Featherston has no garage whatsoever, correct? Mr. Featherston replied correct.

Trustee Flood stated that he liked how they were going to put the detached garage back further. He added that those houses were built back during the Korean War for the returning veterans and are a low-profile house. He didn’t think that a couple of feet was going to make that detrimental at all back there.

Board Member Walker agreed with Trustee Flood.

Alternate Board Member Painter said she didn’t think that the addition was going to create any problems.

Acting Chairman Durham asked Building Official Goodloe if there were any public comments. Building Official Goodloe stated that he didn’t see any.

Moved by Alternate Board Member Painter, seconded by Trustee Flood, that in the matter of ZBA case AB-2020-20, Douglas Featherston, 2500 Flintridge, 09-29-429-021, the petitioner is requesting 1 variance from Zoning Ordinance No. 78: Article XXVII, Section 27.02(A)(5) – Zoned R-2; a 2.3-ft.
Mr. Baker stated that he had a glimpse of it, but with those trees there he didn’t see it. Mr. Baker said that he didn’t pull off to the side of the road to look.

Mr. Baker stated that he knew this was important for advertising for their store.
Board Member Walker stated that he thought that it was a very large variance. He said when he went over there, he was surprised that there was a store called Ashley. He wasn’t sure that the signage was the issue or not? He asked if there were two signs in the front, on the building? Mr. Baker replied just one in the front, there are two signs total.

Board Member Painter said she agreed with Board Member Walker. She stated that she was surprised that she couldn’t see the sign through the trees either. When she went down I-75 and she had a hard time finding the building through there. She didn’t think that the variance justified what they want to do. Mr. Baker said that he knew that both the signs were premade for them, so he didn’t know how the process went about, that they ended up with both the signs. Board Member Painter asked if they were going to have a sign out front? Mr. Lewis said he didn’t know if it was proposed, designed, and if they trying to match what they do at other stores, or if it was designed specifically for this location? He said he got the impression that this extra sign was put specifically to help them advertise off of I-75, but didn’t know that for sure. Board Member Painter said that people driving down I-75 were probably going 90MPH by the time they hit that area. Mr. Lewis said he didn’t think that anyone would catch it off of I-75 either. He said he was sure that they have no control over those trees.

Acting Chairman Durham said that the applicant did make a statement somewhere in the information that part of what they wanted the sign to do is also give them visibility to people that were going over to the old Joe’s Crab Shack building. He added that if they were to follow that drive it would lead them straight to the south, where the empty restaurant is. If they were to follow the road, in order to get to it, they would drive right to kitty-corner to the face of that building. They are not going to get to the building they are talking about without reading what is on the front of the building they have now. It doesn’t do anything for him, and he doesn’t see it.

Trustee Flood said that the location would be Long Horn Restaurant is what is in there which is occupied. He added as far a signage size goes, that whole length of that building is not supposed to have signage on it because it is restricted to our ordinance and it has one sign on the front-facing Baldwin. As far as the size goes, and as far as the building, it would have to be hundreds of feet long, to him it was not too big of a sign. He questioned if it is going to really serve the purpose with the restriction of the trees, and will they be able to see it from Baldwin? He knew that when they came over the hill, it is difficult to see anything back in there.

Acting Chairman Durham said that in the information it says that they are trying to get Auburn Hills sign put on their big road sign out on I-75. Do they feel that they may succeed there? Mr. Baker replied he didn’t know it hasn’t come up. They are not working on it, so he was questioning that if that was going anywhere. Nothing has been brought across his desk yet. Acting Chairman Durham said that it didn’t matter either way.

Acting Chairman Durham asked Building Official Goodloe if there were any public comments? Building Official Goodloe replied no.

Acting Chairman Durham asked if the applicant had anything else to add? Mr. Baker replied no.

Moved by Board Member Walker, seconded by Alternate Board Member Painter, in the matter of ZBA case #AB-2020-21, Northern Sign/Ashley Homes Store Sign, 4936 Baldwin, 09-32-351-024, I would move that the petitioner’s request for two variances from Sign Ordinance 153; section 7 Non-Residential Zoned Area Walls Signs Zoned GB: a variance to allow 1 additional wall sign to a business with an existing wall sign for a total of 2 wall signs; a 242.38-sq. ft. variance above the allowed 200-sq. ft. maximum for 2 wall signs totaling 442.38-sq. ft. be denied because the petitioner did not demonstrate that the following standards for the variances have been met in this case and that they set forth facts which show that in this case: the petitioner does not show Practical Difficulty due to any uniqueness of the property and it is not related to the general conditions in the property area; there
were not exceptional or extraordinary circumstances or conditions applicable to this property that do not
generally apply to other properties in the same district or zone: this is an end building in the mall, and
they just want another sign and wasn’t sure if it would do them any good in the first place; the variance
is not necessary for the preservation and enjoyment of a substantial property right possessed by other
property in the same zone or vicinity; the granting of the variance or modification will be detrimental to
the public health or material injurious to the property in such zone or district; it will not impair supply of
light; it will not unreasonably increase congestion: because no one will be able to see the sign; for the
above reasons he asked that the petitioner’s request be denied.

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

6. PUBLIC COMMENTS
None

7. COMMUNICATIONS
Memo from Planning & Zoning Coordinator Harrison dated August 27, 2020, Dates which cases can be
postponed to

8. COMMITTEE REPORTS
None

9. MEMBERS’ COMMENTS
Trustee Flood said that the Township Board is now having their meetings at the Orion Center. He
thought there was no reason they couldn’t get back together in person for the ZBA.

Acting Chairman Durham, Board Member Walker, and Board Member Koscierzynski all agreed with
Trustee Flood.

10. ADJOURNMENT
Moved by Board Member Walker, seconded by Alternate Board Member Painter to adjourn the meeting
at 8:00 pm.

Respectfully submitted,

Debra Walton
Planning & Zoning Coordinator
Charter Township of Orion

September 28, 2020

Zoning Board of Appeals Approval