

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY OCTOBER 12, 2020 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 12, 2020, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

Please note this meeting was also 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
Mike Flood, BOT Rep to ZBA
Tony Cook, Board Member

ZBA MEMBER ABSENT:

None

CONSULTANT PRESENT:

David Goodloe, Building Official

OTHERS PRESENT:

Jeffrey VanHouzen Jude Jones
Michael Daisley

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. ELECTION OF CHAIRPERSON (thru the end of the year)

Moved below for discussion between Public Comments & Communications

4. MINUTES

A. See Item A under ZBA Business

5. AGENDA REVIEW AND APPROVAL

Amended to move item #3 to between Public Comments & Communications

6. ZBA BUSINESS

A. ZBA Regular Minutes – AB-2020-23 Motion (from the September 28, 2020 ZBA meeting)

Motion for ZBA Case AB-2020-23, Michael Chisholm, 4025 Waldon, 09-30-200-001

Secretary Koscierzynski read the memo from Planning & Zoning Coordinator Harrison dated October 6, 2020.

Secretary Koscierzynski amended the motion, Board Member Flood re-supported to correct the motion from the September 28, 2020, ZBA meeting #5(A)(1):. That in the matter of ZBA case AB-2020-23, Michael Chisholm, 4025 Waldon Road, 09-30-200-001 regarding the motion to approve to “change the square footage from 1) variance 3,600-sq. ft. to 2,200-sq. ft. above the allowed 1,400-sq. ft. Maximum

Floor Area of all Detached Accessory Buildings to build a 3,600-sq. ft. pole barn. The remaining motion for variances #2 & #3 was to remain the same.

Roll call vote was as follows: Walker, yes; Flood, yes; Koscierynski, yes; Cook, yes; Durham, yes.
Motion Carried

Moved by Board Member Flood, seconded by Acting Chairman Durham, to approve the 9-28-2020, ZBA Regular Meeting Minutes as corrected. **Motion Carried**

B. AB-2020-27, Jeffrey VanHouzen, 805 Alan Dr., 09-11-379-059

Acting Chairman Durham read the petitioner's as follows:

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

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

- 1) A 10-ft. rear yard setback variance (east) from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the rear property line (east).
- 2) A 10-ft. side yard setback variance (south) from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line (south).
- 3) An 11-ft. front yard setback variance from the required 30ft. (Buckhorn Dr.) to erect a 6-ft. privacy fence 19-ft. from the front property line (Buckhorn Dr.)

Mr. Jeffrey VanHouzen, 805 Alan Dr., the applicant presented.

Mr. VanHouzen stated that he was looking to build a privacy fence on his property line. He noted that they had two dogs and a four-year-old child, and lived on a corner property. He said that there was a stop sign there but not too many people came to a complete stop. For his own peace of mind, he wanted to put a privacy fence in. Acting Chairman asked if a 4-ft. farm type fence would not do it? Mr. VanHouzen replied no, because his dog is about 60 pounds and could hop a fence no problem.

Acting Chairman Durham said that he was no different than anyone else that has come before them and said that very thing. They put underground fences in to control dog on where they are supposed to go, he asked if that was something they thought about? Mr. VanHouzen replied they have but that was something that he never wanted to do with his animals due to the shocking. Acting Chairman Durham stated that he had one for his dog and was hit by it one time and has never gone near it ever since but respected his opinion.

Trustee Flood asked if the existing fence that was there now was going to be removed. Mr. VanHouzen replied yes. Trustee Flood asked so there will not be a fence against a fence? Mr. VanHouzen replied no. Mr. VanHouzen stated that it was a cheaper fence that was put in and goes back to the 60-pound dog who would blow right through the fence.

Trustee Flood noted that they were on a corner lot and that is always difficult because they had two frontages on the street. He was looking at the variance for the 11-ft. from the 30-ft. and was concerned about the line of sight when they came around the corner but now thought it would not be a problem on the line of sight. Trustee Flood asked if he was going beyond the back wall? Mr. VanHouzen replied yes. He said on that side it is just going to be to the front of the driveway so it would not be towards the end of the street and that it would just be at the end of the driveway.

Trustee Flood asked if he was looking at the privacy fence adjacent to the rear wall on the house and then back to the back-property line? Mr. VanHouzen replied correct.

Trustee Flood noted that they had a tree right on the property line in the back. Mr. VanHouzen said yes, he has discussed it with both of the neighbors and the fence would go around the outside of the tree and that the tree would be on the inside of the yard.

Trustee Flood asked if they were going to install gates so the Fire Department can get to the back of their house? Mr. VanHouzen replied yes, there will be gates in there. Trustee Flood asked if he knew what size the gates were? Mr. VanHouzen replied no but said that if there was a requirement that was needed, he would make sure to follow that. Trustee Flood said his concern was making sure the Fire Department would have access to the rear of the house. Mr. VanHouzen replied yes, they will.

Secretary Kosciuszynski stated that she also lived on a corner lot and felt that sometimes it can get scary especially if they had kids. Mr. VanHouzen said that there are no street lights there either. Mr. VanHouzen noted that there was a stop sign but had only seen a hand full of people completely stop. For his peace of mind and letting his dogs out and not having to worry, plus the four-year-old playing in the backyard.

Acting Chairman Durham said that it was mentioned in the application something about being concerned about neighbors taking over their property if it was not fenced? Mr. VanHouzen replied that when he filled out the application he had just moved into the property. He has since met the neighbors and has spoken to both sides and doesn't have that fear anymore. He said one of the neighbors is willing to help with the cost of his side of the fence.

Mr. Jude Jones, 821 Alan Drive, called into the meeting via GoToMeeting. Acting Chairman Durham asked if he had business with this particular case? Mr. Jones replied yeah that they share a property line. He thought that item #3 should have said Alan drive and not Buckhorn Dr. because that is the front of his property. They have discussed the fence and he didn't have a problem with the fence being on the property line. He added that he heard them discussing the stop sign and didn't know what else had been discussed but if there is a problem with the variances, he would like a direct phone call because he didn't have a problem with it as it is written and he can't hear them on the call, he had hearing issues and the call kept cutting in and out. Acting Chairman Durham asked if he had any issues with the variance. Mr. Jones replied pretty much from what he had heard. They have agreed to work everything out that comes up, he is his new neighbor, and so far, have had really good communication.

Trustee Flood asked if he would be installing the good side of the fence on the outside? Mr. VanHouzen replied, correct. Trustee Flood asked if the posts would be on the inside of the fence? Mr. VanHouzen replied yes.

Board Member Cook asked the applicant if Miss Dig was out to see if there were any issues where they are planning on placing the fence, where any utilities might be on the property? Mr. VanHouzen replied no he had not. Board Member Cook noted that it might be a consideration of where the fence might be going. Mr. VanHouzen replied that he did have someone come out and give him a quote, and noted that he had walked the whole property with him.

Board Member Cook asked if there was a Home Owners Association? Mr. VanHouzen replied he wasn't sure. Board Member Cook said that it is fine if there is because they are not bound by those bylaws that they have but from the standpoint of being the good neighbor they might want to check with them to see if there are any issues. Those were his concerns with him being new to the area.

Board Member Cook said that currently along the rear line there is a staked fence, and also along the southern side, he asked if that was where the privacy fence would be going? Mr. VanHouzen replied yes.

Board Member Cook stated that with a privacy fence and a dog will create a lot of anxiety sometimes because they can't see out anymore. Mr. VanHouzen replied that his dog will bark at anything coming by, and with him having the solid fencing he figured it would limit his barking as to what he can see what is out there. Board Member Cook noted that it creates more anxiety. Board Member Cook said these are things he wished someone would have told him when he first bought his house. He added from the utilities and the Homeowners Association standpoint those are two considerations. Mr. VanHouzen stated that those were really good things to know. He added that his dog's first training was going to be the next day at noon with Sit Means Sit dog training, and would bring it up to them regarding the privacy fence and what is the better route to go.

Board Member Cook noted that puts Mr. VanHouzen in a position where they can plan to move forward with where he was tonight because he didn't have the answers to those questions or he could postpone to a meeting in the future. Mr. VanHouzen questioned if he was to get another fencing other than wood, something they could see through, then what he was saying was he would need the same approval that he is going through now? Board Member Cook said that the type of fencing is probably number three on that list, the number one concern was where are the utilities, and then if he wanted to talk to his Home Owners Association would be number two, and then as far as the dog goes. The type of fencing would be number three in the order of priorities.

Acting Chairman Durham asked Building Official Goodloe if the petitioner was successful tonight and when he has Miss Dig come out, if there was something that would obstruct his path, would he have to come back before them again? Building Official replied no. The variance would give him the option to move it if need be. He added that they get notification from all Miss Dig tickets and was something that they could look at, but he can't further encroach outside of that, once he gets it on the property line. If he has to move it in because of utilities he does have the right to move it in.

Board Member Walker said that he didn't see anything from the Fire Marshal with regards to having access. He asked the Board if they do grant the petitioners request that they would make sure to include that they keep the Fire Marshal in the loop about the fence to make sure that there is an access point to the house.

Secretary Koscierzynski said she had a comment with regards to Practical Difficulty on the application and saying that they are concerned with the neighbors taking over the extra space if left unfenced. She didn't think that seems like a Practical Difficulty. Mr. VanHouzen said that was discussed in the beginning and he noted that was not a concern of his now. He had written the application on the 4th and since then he has spoken with his neighbors and it was not a concern anymore. Secretary Koscierzynski asked what his Practical Difficulty was then? Mr. VanHouzen replied to build it on the property line to have more space in his backyard.

Acting Chairman Durham said that he had mentioned that he had a four-year-old? Mr. VanHouzen replied yes. Acting Chairman Durham said he assumed that she was a runner? Mr. VanHouzen replied yes. Acting Chairman Durham said having a secure fence there would make them a little more secure with her not getting into traffic. Mr. VanHouzen replied yes, and also the two dogs.

Board Member Cook asked if the house next door to him was 821 the house to the south? Mr. VanHouzen replied yes. Board Member Cook said that it was a huge jump in numbers and that is why he was questioning it. Mr. VanHouzen replied agreed.

Moved by Board Member Walker, seconded by Trustee Flood, that in the matter of ZBA case #AB-2020-27, Jeffrey VanHouzen, 805 Alan Dr., 09-11-379-059, the petitioner is requesting 3 variances from Zoning Ordinance #78 – Zoned R-3, Article XXVII, Section 27.02(A)(4) and Article XXVII, Section 27.05(H)(2); 1) a 10-ft. rear yard setback variance (east) from the required 10-ft. to erect a 6-ft. privacy fence right on the property line on the (east); 2) a 10-ft. side yard setback variance (south) from the required 10-ft. to erect a 6-ft. privacy right on the property line to the (south); 3) an 11-ft. front yard setback variance from the required 30-ft. (Buckhorn Dr.) to erect a 6-ft. privacy fence 19-ft. from the front property line (Buckhorn Dr.) be **granted** because the petitioner did 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 does show the following Practical Difficulty: the property in question is a corner lot which complicates everything; the petitioner indicated that he had a four-year-old stepdaughter and two dogs, a Coonhound and a Brittney Spaniel, due to the unique characteristics of the property and not related to general conditions in the area of the property: they don't apply to other properties in the area because they are not corner lots; the variance is necessary for the preservation and enjoyment of a substantial property in the same area: there is some concern about the dogs escaping and the petitioner indicated that he was not interested in putting in an electronic fence, and also with regarding the small child, there is a stop sign but seems to be ignored by most of the residents; 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; it will not impair any light or air to an adjacent property; it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger the public safety; it will not unreasonably diminish or impair established property values with the surrounding area; also that the gate shall be installed to allow the Fire Department access to the rear of the property, the good size of the fence will be facing out, and that the other fence that is there will be taken down.

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

C. AB-2020-28, Michael Daisley, 925 W. Greenshield, 09-22-401-001

Acting Chairman Durham read the petitioner's as follows:

The petitioner is requesting 3 variances from Zoning Ordinance #78

Article XXVII, Section 27.02 – Lot size over 2.5 acres

- 1) A 1,000-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of All Detached Accessory Building to add an 800-sq. ft. addition to an existing 1,600-sq. ft. pole barn.
- 2) A 1,028-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of all Accessory Buildings, to add an 800-sq. ft. addition to an existing 1,600-sq. ft. pole barn and a 528-sq. ft. attached garage.

Article XXVII, Section 27.17(B)

- 3) A 25-ft. wetland setback variance from the required 25-ft. for a detached pole barn addition to be 0-ft. from a wetland.

Trustee Flood made a transparency statement for the Board Members and for public record. He noted that he contracts Mr. Daisley for his lawn service and snow plowing. He also has a contract with the Township maintaining Baldwin Rd. the phase one project, and was the Code Enforcement Officers son. He left it up to the Board if he should recuse himself or not. Secretary Koscierynski commented that they all know Al Daisley (Code Enforcement Officer) for years now and he is a respected member of the

community and she didn't see a problem with it. Acting Chairman Durham and Board Member Cook also stated they had no issues with it.

Mr. Michael Daisley, 925 W. Greenshield presented.

Mr. Daisley said that he was looking to add an addition to a pole barn for additional storage. He said they are looking into getting horses. They also were looking to train police dogs so they are looking for some indoor training space, as well as, additional storage to train the dogs inside during inclement weather.

Acting Chairman Durham said that it looked to him like a perfect setup for it. He has a big yard with a falloff to the back. When he left the property and knew where the pole barn was and still couldn't see it from the road. As it was said in the application the property is enclosed by state land so it would not affect anybody. He did not see the overabundance of trucks with snowplows, they had a very neat looking property. Mr. Daisley said that they had some side storage on the pole barn and they would like to get that inside to keep it out of the weather and for safety factors.

Secretary Koscierzynski stated that the unique circumstances of his property are that he doesn't have any neighbors and it is not going to be a problem for anybody. She knew it was large but, in this situation, and they do this case by case, there are no neighbors to be concerned with anything visual.

Trustee Flood stated that looking at where the area was staked out it was not unreasonable for that square footage. His main concern was the wetland but when he went to look at the site the existing barn is not going to go further in it is just going to go off the existing barn. It is really not a real wetland in the sense that it is water, it is a lower area full of scrub, wood, and trees. After seeing it, it gave him a better idea. He was comfortable too that the existing building was just an extension, he would not be going further back in.

Secretary Koscierzynski asked what he was planning to put in the pole barn? Mr. Daisley said eventually stalls for horses, open area to train police dogs, and they also train 1-2 dogs per year that go to local police departments. Some interior space to hide odors and work with the dogs.

Board Member Cook said that he had a chance to go look at it and he didn't see anything wet. He noted that in the application, where they ask if they had control over other properties adjoining the site, he does own have control of the Sidwell next door to him. He asked when they drove onto the property where were they? Mr. Daisley said on the east parcel and then the barn is on the west parcel.

Moved by Secretary Koscierzynski, seconded by Trustee Flood, in the matter of ZBA case #AB-2020-28, Michael Daisley, 925 W. Greenshield, 09-22-401-001, the petitioner is requesting 3 variances from Zoning Ordinance #78; Article XXVII, Section 27.02 – Lot size over 2.5 acres; 1) a 1,000-sq. ft. variance above the allowed 1,400-sq. ft. Maximum Floor Area of All Detached Accessory Buildings to add an 800-sq. ft. addition to an existing 1,600-sq. ft pole barn; 2) A 1,028-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of all Accessory Building, to add an 800-sq. ft. addition to an existing 1,600-sq. ft. pole barn and a 528-sq. ft. attached garage; Article XXVII, Section 27.17(B); 3) a 25-ft. wetland setback variance from the required 25-ft. for a detached pole barn addition to be 0-ft. from a wetland 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: defined to unique circumstances of the property is that the property is on seven acres, there are no neighbors, the pole barn is not going to be a problem for anyone; 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 or zone: the property is on a dirt road with no other neighbors the pole barn will not be a sight problem for anyone; 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: the pole barn is for horses, stalls, and to train police dogs; 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: the pole barn is going west and that is not a concern for the wetland; further, based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent properties; it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger the public safety; it would not unreasonably 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; it is zero feet from the wetland but it is 60-ft. from the property line.

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

6. PUBLIC COMMENTS

None

(Moved Down From #3.) ELECTION OF CHAIRPERSON *(thru the end of the year)*

After discussion by the Board Members the election of Chairperson and Vice Chairperson was as follows:

Moved by Secretary Koscierynski, seconded by Mike Flood to nominate Dan Durham for the Chairman of the Zoning Board of Appeals for Orion Township, through the end of 2020.

Motion carried unanimously.

Moved by Trustee Mike Flood, seconded by Board Member Walker to nominate Lucy Koscierynski for the Vice-Chairman position for the remaining 2020 ZBA meetings.

Motion carried unanimously

7. COMMUNICATIONS

Informational Memo from Planning & Zoning Coordinator Harrison dated October 6, 2020, regarding the Joint meeting on 11/12/2020 6p-8p.

Memo from Planning & Zoning Coordinator Harrison dated October 6, 2020, Dates which cases can be postponed to

8. COMMITTEE REPORTS

None

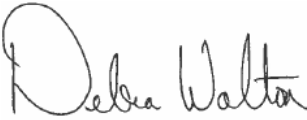
9. MEMBERS' COMMENTS

Trustee Flood said following up on that Joint meeting. He stated they are not supposed to legislate and that is what they are doing with all of these 6-ft. fences. He thinks that the ordinance needs to be updated. Also, the larger parcels that are 5-10 acres fall under a 2.5-acre allowance and the number is small.

10. ADJOURNMENT

Moved by Vice-Chair Koscierynski, seconded by Chairman Durham to adjourn the meeting at 7:54 pm.

Respectfully submitted,



Debra Walton
Planning & Zoning Coordinator
Charter Township of Orion

October 26, 2020

Zoning Board of Appeals Approval